

**MINUTES OF THE JOINT MEETING OF THE
SENATE COMMITTEE ON REVENUE AND ECONOMIC DEVELOPMENT
AND THE ASSEMBLY COMMITTEE ON TAXATION**

**Seventy-Eighth Session
March 18, 2015**

The joint meeting of the Senate Committee on Revenue and Economic Development and the Assembly Committee on Taxation was called to order by Chair Michael Roberson at 1:09 p.m. on Wednesday, March 18, 2015, in Room 1214 of the Legislative Building, Carson City, Nevada. The meeting was videoconferenced to Room 4412 of the Grant Sawyer State Office Building, 555 East Washington Avenue, Las Vegas, Nevada. [Exhibit A](#) is the Agenda. [Exhibit B](#) is the Attendance Roster. All exhibits are available and on file in the Research Library of the Legislative Counsel Bureau.

SENATE COMMITTEE MEMBERS PRESENT:

Senator Michael Roberson, Chair
Senator Greg Brower, Vice Chair
Senator Joe P. Hardy
Senator Ben Kieckhefer
Senator Ruben J. Kihuen
Senator Aaron D. Ford
Senator Pat Spearman

ASSEMBLY COMMITTEE MEMBERS PRESENT:

Assemblyman Derek Armstrong, Chair
Assemblyman Randy Kirner, Vice Chair
Assemblywoman Teresa Benitez-Thompson
Assemblywoman Irene Bustamante Adams
Assemblywoman Olivia Diaz
Assemblywoman Jill Dickman
Assemblyman John Hambrick
Assemblyman Pat Hickey
Assemblywoman Marilyn K. Kirkpatrick
Assemblywoman Dina Neal
Assemblyman Erven T. Nelson
Assemblyman Glenn E. Trowbridge

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STAFF MEMBERS PRESENT:

Russell Guindon, Principal Deputy Fiscal Analyst
Joe Reel, Deputy Fiscal Analyst
Bryan Fernley, Counsel
Gayle Rankin, Committee Secretary

OTHERS PRESENT:

Brian Sandoval, Governor
Robert List
Richard Bryan
Bob Miller
Chris Nielsen, Deputy Chief of Staff, Office of the Governor
Jeremy Aguero, Principal Analyst, Applied Analysis
Deonne Contine, Executive Director, Department of Taxation
Steve Hill, Executive Director, Office of Economic Development, Office of the Governor
Rob Hooper, Executive Director, Northern Nevada Development Authority
Mike Kazmierski, President/CEO, Economic Development Authority of Western Nevada
Glenn Christenson, Chairman Emeritus, Las Vegas Global Economic Alliance
Tom Skancke, President/CEO, Las Vegas Global Economic Alliance
Missy Young, Executive Vice President, Colocation at Switch
Jack McNeill, Senior Vice President, Scientific Games
Elaine Wynn, President, State Board of Education
Phil Satre, Chairman of the Board, International Game Technology
Ruben Murillo, Jr., President, Nevada State Education Association
Jovan Agee, Nevada State Education Association
John Vellardita, Executive Director, Clark County Education Association
Jesse Haw, President, Nevada Home Builders Association, Inc.
Josh Griffin, Nevada Subcontractors Association
Bill Welch, Nevada Hospital Association
Virginia Valentine, Nevada Resort Association
William Vassiliadis, Nevada Resort Association
Tracey Woods, Anthem Blue Cross and Blue Shield of Nevada
Barbara Smith Campbell, The Ferraro Group
Brent Bell, President and Chairman, Whittlesea-Bell

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Jonathan Schwartz, Director, Yellow Checker Star Transportation
Jim Eckstaedt, Frias Transportation
David Goldwater, Desert Cab, Inc.
Dan Chia, SolarCity Corporation
Maureen Schafer, Executive Director, Council for a Better Nevada
Tom Kaplan, Senior Manager, Wolfgang Puck Fine Dining Group; Council for a
Better Nevada
Rudy Manthei
Otto Merida, President and CEO, Latin Chamber of Commerce
Kenneth C. Evans, President/CEO, Urban Chamber of Commerce
Peter Guzman, President/CEO, Valley Center Opportunity Zone
Melody Chutter
Linda Sanders
Knight Allen
Alisa Bistrek
Carole Vilardo, President, Nevada Taxpayers Association
Paul Enos, CEO, Nevada Trucking Association
Samuel P. McMullen, Las Vegas Global Economic Alliance
Susanne Trimbath, Ph.D., CEO and Chief Economist, STP Advisory Services,
LLC
Ray Bacon, Nevada Manufacturers Association
Matthew Taylor, President, Nevada Registered Agent Association, Inc.
Bryan Wachter, Retail Association of Nevada
Janine Hansen, State President, Nevada Eagle Forum; Nevada Families for
Freedom
Wayne Frediani, Nevada Franchised Auto Dealers Association
Victor Joecks, Nevada Policy Research Institute
Terry Graves, Western Metals Recycling LLC; Nevada Cogeneration Associates
Paul Moradkhan, Las Vegas Metro Chamber of Commerce
Dana Bennett, President, Nevada Mining Association
Ryan Sheltra, General Manager, Bonanza Casino
Matt Griffin, Satellite Broadcasting and Communications Association
Michael Harris, Nevadans for the Common Good

Chair Roberson:

We are here to consider Senate Bill (S.B.) 252. This is an extraordinary and historic day. During the State of the State Address in January, Governor Brian Sandoval said:

With our spirit of perseverance and courage, we must dare to write the next chapter of the Nevada story; a story that Nevadans in 2064 will look back on and say, "they did it right." I ask us all to rise above that which seems easy. I ask us to lead. I ask us to lead, so that the new Nevada can lead.

SENATE BILL 252: Revises provisions governing the state business license fee.
(BDR 32-1185)

Brian Sandoval (Governor):

It has been 72 days since I delivered my inaugural address. I spoke of building the foundation for the generations to come. I also gave a speech on the steps of the Nevada State Capitol when I gave my inaugural speech, and I talked about the fact that we need to modernize and transform Nevada to prepare for the next 50 years through investment and reform.

Today is the day I alluded to in both of those speeches, the time and place where the most difficult decisions await us and where the real debate begins. Everyone who will testify has a willingness to be heard. We have former Governors whose experience, wisdom and perspective are invaluable to the consideration of this bill. I do not believe in our proud 150 years of history that three Governors along with the serving Governor have participated in the presentation of a bill. Governor Robert List and U.S. Senator Richard Bryan are with us in Carson City, and Governor Bob Miller is with us in Las Vegas.

In 2011, we worked together to navigate the Silver State out of the worst economic storm of our time. We faced 14 percent unemployment, a \$2 billion budget deficit, a reeling economy and worst-in-the-nation education performance. There was great debate and many differences, but in the end we made the difficult decisions and came together as Nevadans to keep our fragile State afloat. It was a time of resiliency. In 2013, unemployment was down and the economy was improving and diversifying. We began to see light at the end

of the tunnel. We began to make modest investments in our education system and our infrastructure. It was a time of recovery.

Today, as I mentioned in my State of the State Address, I believe we stand at a new threshold, and there is some good news. Over the last year, we experienced the sixth-strongest decline in unemployment in the Nation. Our 3.6 percent gain in jobs over the past 3 years is third strongest in the Nation. We are in the top ten in many other important economic indicators. We are the third-fastest growing state in population. It is a time of resurgence. On the education front, I saw the report that Nevada is last in the Nation in its high school graduation rate.

There is some good news. The day before yesterday, I had the opportunity to speak with Arne Duncan, U.S. Secretary of Education, regarding our students' improving graduation rates. I am proud to report our rate of improvement for graduation rates from 2011 to 2013 is among the top gains in the Nation at almost 9 percent and almost four times the national average. The rate of improvement for African-American students is 12.8 percent, one of the top in the Nation. Our Hispanic students are at 10.95 percent, one of the top in the Nation. Even with these gains, our graduation rates continue to lag the Nation.

All of you, and I, visit the schools. It has been Nevada Reading Week and Nevada Reading Month, and we have all taken the time to read at the schools. When I see the kids sitting with their legs crossed listening to me, I see unlimited potential in every child who lives in our State. They are the ones who will inherit the Nevada we build for them today. Our greatest investment and most strategic reforms must be made in the ways we educate our children. It is in their minds, hearts and dreams on which the future of our State relies.

It will do no good to bring innovative and breakthrough industries to our State if we cannot provide the educated workforce to fill the employment opportunities they bring. One can only estimate the economic loss and opportunity lost because of companies that simply choose not to come to Nevada because of our education system. Most of all, we regain the confidence that when Nevada families' sons and daughters leave for school, we have done right by them through adequate investment, reform and accountability.

Our schools and demographics are different than they were 50 years ago. In Clark County, 71 percent of the children enrolled are minorities and 60.39 percent of them qualify for Free and Reduced-Priced Lunch. For the rest of the State, 45 percent are minorities and 44 percent qualify for Free or Reduced-Price Lunch. I appreciate the hard work of your committees. You have heard the budget proposals that will increase investments in programs—such as prekindergarten; kindergarten; Read by Grade 3; English Language Learners (ELL); Victory Schools; technology, career and technical schools; gifted and talented students; science, technology, engineering and mathematics (STEM) education; special education; charter schools; Jobs for America's Graduates (JAG); and professional development and merit pay for teachers and administrators—and begin the process of modernizing the way we fund our education system.

I have assured the business community that all of these proposals come with accountability and performance measures to ensure all the dollars invested go only to where they are intended. Most encouraging for me in my over 100 meetings with business leaders, Legislators, industry representatives and other stakeholders is the universal agreement that we have to invest in our children and our schools. They understand that when we do this, we invest in the economic wellbeing of businesses and their employees. The biggest disagreement comes in how we fund education while also building a revenue structure that meets the demands of a growing state. As I considered this Business License Fee (BLF), we learned lessons from the 2003 gross receipts proposal, the 2011 margins tax proposal and State Question No. 3, which the voters rejected substantially last November.

Senate Bill 252 is not those proposals. It has lower rates, distinguishes between businesses and is easy to administer and comply. We also considered increasing the Modified Business Tax (MBT). We learned that less than 3 percent of Nevada businesses pay the MBT. We also had to accept the hard reality that our revenue structure left a \$150 million hole in our budget and does not keep up with growth or reflect our changing economy. As I went into this endeavor, three guiding principles informed my efforts as we pursued the best possible revenue structure for our State. It has to be broad-based; it has to be simple to enact and comply with; and it has to be fair.

The Business License Fee as proposed is broad-based because it will apply to all Nevada businesses. It is fair because it allows for a 15 percent growth factor so businesses can grow before incurring a greater tax liability. It also differentiates between business types. Businesses have different costs of labor and goods, and this bill recognizes that. Construction is not the same as retail, and retail is not the same as a resort-hotel. The BLF is simple because it takes advantage of an existing revenue collection structure and can be enacted immediately.

I am aware you have conducted hearings on the MBT and service tax. I also understand that Senator Pat Spearman and the Republican members of the Assembly are considering proposals of their own. I commend you for that. It takes a lot of courage and a lot of hard work. As you have worked on this, you have probably come to the same conclusion I did when I talked about it in the State of the State. There is no perfect tax. I remain open and willing to meet and talk with you and invite that debate and to work together so we fix a tax system that is antiquated and unprepared for the challenges ahead. It is not 1960 anymore. What is most heartening for me is that we all agree that any revenue proposal must be adequate to reach the revenue targets that will build a strong education system for the new Nevada. I believe we are living in a moment that demands vision, creates leadership and requires teamwork. We have a golden opportunity to bring our State from the depth of a recession to being a vibrant national leader that can lead the Nation in education, jobs and innovation. We have a duty to take this challenge on now rather than leaving it for future Legislators, future Governors and the next generation of Nevadans.

It is my heartfelt belief that we have a once-in-a-lifetime chance to define who we are and what Nevada will be. We have weathered a recession, we fought for recovery and now I ask you to join me in setting the course for our resurgence. After you hear the many witnesses today and for the next few days, I ask for your support of S.B. 252. As I sit here as a Nevadan, I see this as one of the proudest moments of my life. This is an opportunity for us to come together as Nevadans from every corner of the State to work on a policy that is truly going to chart the course for every man, woman and child now and for that group of Nevadans in 2064 who will look back and see how we acted and what we did.

Robert List:

I take this opportunity to address the controversial and challenging subject we call tax policy. I use the word challenging because I know how hard it is to

work from a policy standpoint. From a political standpoint, it takes a tremendous amount of courage on the part of elected officials to make these decisions and choices. Many of you know I had the distinct privilege of serving as Governor of Nevada. In the past 150 years, only 39 people have been granted the honor to serve as Governor of Nevada. I am proud to join three of Nevada's finest while we remember the past and plan and advocate for our future.

I was elected 37 years ago. That is ancient history to some of you. We had our share of issues during my time in office, such as the devastating MGM fire that killed 85 people; the MX missile deployment proposal from the federal government; removal of the Mob from the casino industry; the preservation of Lake Tahoe through amendments to the Nevada Tahoe Regional Planning Agency; and tax policy. Tax policy was at the top of the agenda the day I was sworn in. A native son of Nevada, born while I was Governor, now serves as Chair of the Assembly Committee on Taxation. I bring up this nearly forgotten past to highlight the reality of the present.

While our world and State have changed dramatically since my administration, Nevada's tax structure has not. Our revenue sources remain heavily dependent on sales, gaming and mining. They no longer deliver a revenue stream that matches our dynamic changing population growth and our economy, which has dramatically moved as our tax structure has grown obsolete. Governor Sandoval's bold vision for our State began when he committed to diversify our economy during his first term. We have watched the results of that effort come to fruition within our communities because of the hard work of the private and public sectors to rebuild Nevada out of the Great Recession.

If we are committed to taking the next step from recession to resurgence, we must modernize our tax structure to meet the needs of a growing population and to match the dynamics of this changing economy. It is not easy to step out with a bold plan. It takes courage and a certain amount of dedication and willingness to overlook some of the political consequences. Our Governor has done that. The plan he proposes reflects an enormous amount of research and analysis. We know this Governor would not approach such a challenging task any other way than with great conscientiousness.

The Governor has come to testify for a plan he believes in. This is a plan he is fighting for and for which he is willing to put his name on the line. This plan was not structured in a month or in a backroom with special interests. We are in a time when our oldest industries are facing new and significant problems. Mining and gaming have gone through some significantly negative changes during the past 30 to 40 years. These challenges have had a negative effect on our State revenue stream. Thanks to Governor Sandoval's successful continuing focus on diversifying the economy, we have a broader base to shoulder the load.

I remember the enormous controversy surrounding my tax plan. We reduced property taxes and increased sales tax. We also took the sales tax off food for home consumption, such as groceries, and off prescription drugs. One of the features was that the tourists would pay a substantial portion of the sales tax. I called it a tax shift, and my opponents called it a tax shaft. The heat was quite hot. Everybody's political life was on the line.

It passed with bipartisan support. The opposition promised to immediately reverse it when they gained control. It has been changed a little but has not changed substantially in the last 35 years. The tax structure needs to be remodeled to meet modern times. It needs to meet our drastic and crying need to fix our broken education system. I am embarrassed to say that our Nevada schools, kindergarten through Grade 12 (K-12), are an embarrassment to our State. Despite the gains that have been made, we need much more improvement. Our kids deserve better. They are depending on you and your colleagues to find the solution to raise those revenues.

I am not here to say that Governor Sandoval's proposal is necessarily the only or the best approach. If you do not like it, what do you suggest we do? It is your job to step up and show the same kind of courage that Governor Sandoval has shown. You and your colleagues are much more than the winners of your elections in your districts around the State. You were sent here to lead and not to represent a small component of the overall State. We have all heard the phrase "lead, follow, or get out of the way." That is applicable in this situation.

I challenge you to step up and make the hard decisions. This is not about your next election. This is about the future of the next generation of Nevadans—hundreds of thousands of kids from Denio to Laughlin, from

Carson City to Wendover—who have their individual goals to make successes of their lives. It is about the kids, it is not about you.

It takes courage to lead. Some have said no new taxes. That is an arbitrary and stubborn attitude. I could say that it would be easy for Governor Sandoval to coast during his second term. He is a popular guy. Everybody likes him. He could have coasted. He may move on to a higher office in some capacity. He is not satisfied to live with the status quo because he knows what we need. He has embraced this controversy and taken it in his heart to do something for our kids. People respect that. He is still just as popular as he was before he proposed this controversial program. The polls show that. Each of you can take a lesson from that.

This is your time to show what you are made of. If you do not like S.B. 252, then settle on an alternative revenue stream. Work toward a consensus and find a reasonable compromise. That is your duty and responsibility. It is also your privilege to make a contribution to this State, to do something of lasting significance. I hope and believe you will do that.

Richard Bryan:

I appear as a private citizen; not on behalf of the law firm I am a member of, Fennemore Craig, or our clients. My remarks are mine and mine alone.

I am a product of the public school system of Nevada. In September 1942, I came to a historic Las Vegas grammar school and met Doris Hancock. She was a legendary teacher. She had an insight that, as a youngster, I did not fully comprehend. I had trouble coloring within the assigned perimeters. She pinned a note to me for my mother. It said, "Richard has trouble staying within the lines." I did not realize how prophetic she was. Twelve years later, I graduated from Las Vegas High School. In my senior year, my English teacher was Sally Riggs. She assigned some of the great literary figures in the history of the English language, including Alexander Pope. What he said about education at that time has stayed with me over the years.

It is common knowledge that education forms the mind. The twig is bent and the tree is inclined. I think it is true, with the exception of my loving parents and supportive wife, no one has had a greater impact on my life than the educators

who taught me. My dreams became a reality as they have for hundreds of thousands of Nevadans based upon the public education system of this State.

Thirty-eight years ago, I had the privilege of serving on this Senate Committee, which then bore a different name. I sat where Senator Roberson is sitting today. It was my privilege to serve as Chair. I appreciate the opportunity to join with those of you whom I respect for your public service. I am pleased to be here to support the Governor's funding level for K-12 education. It is courageous, bold, visionary and necessary. It moves the educational ball into the end zone. For too long, Nevada has languished at or near the bottom of the K-12 educational system. There are consequences to that. We shortchange the children of our State, and we handicap our leaders in attracting the kind of businesses we want for the future, including well-paying jobs and jobs that recognize the technology of the future.

The Governor's plan will require additional revenue. I am not unmindful of the criticism he has received. We are told Nevada's reputation as a tax-friendly state will be destroyed as a result of the new tax. I disagree. For too long we have pursued the holy grail of lower taxes in our efforts to expand our economic base. It is fair to say a confiscatory tax structure will deter businesses coming into our State. This afternoon, others will tell you that far too often, education is a top priority for businesses relocating to our State. We have lost out because our educational system is inadequate, not because our taxes are lower.

States with a higher tax rate have supported their education more wisely. The Governor's proposal generates the kind of revenue we need to reverse the trend and adequately fund K-12 education. The Governor has wisely indicated that other proposals or modifications may get us there. The important thing is we generate the revenue sufficient to enable our educational system to move forward and out of the doldrums and transform our State. This Committee and this Legislature have a destiny and it awaits you.

Sixty years ago, our educational system was in a crisis as it is today. Sixty years ago, a proposal was advanced before the 47th Session in 1955 by a Republican Governor, Charles Russell. Then as now, the critics say this will destroy our State as a haven for new business opportunities. I respectfully suggest to you that this is a perfect moment. Seize the opportunity. We have studied this issue, and we have studied the alternatives. The time is now and it

requires action. It will take courage. All of us are aware of the fact that anytime you increase revenues, there are those who are critical. This is something I urge you to do for the children of our State and for us to develop the kind of economy that is part of the twenty-first century. The tax structure that served us well in the previous century no longer generates adequate revenue for us to provide the kind of opportunities for Nevadans in all occupations. I urge this Committee to develop a legislative program that can be enacted this year and provide the revenue we need to do the job.

Bob Miller:

For decades, along with many people in this room, I have been fighting to modernize our educational system through reforms and the creation of a stable, broad-based funding source. This Legislative Session is the best opportunity we have to reach this goal. In the 1990s, our focus was on class size reduction and early childhood programs like family-to-family, family resource centers and enhancing technology in our classrooms. We studied standards, assessments and accountability.

Here we are today. Most of you know the depressing statistics about our State education system. We have the lowest percentage of children enrolled in an early childhood program of any state in the Country. We have thousands of students reading below grade level. Thirty percent of our students will not graduate from high school. We have hundreds of teacher vacancies. Our universities are not graduating the majority of our students because too many of them are not prepared for the rigorous routine of college. This situation is unacceptable. Without an additional stable funding source to improve our State education system, we will be back next Session and in future sessions arguing over the same issues while we continue to fail to provide an excellent public education for every student.

With advanced industries finally entering our State, it is our obligation to produce a workforce that can actually ensure Nevada is a great place to live and prosper. We need all available revenues to go toward improving public schools and our universities. Approximately 5 years ago, I recall sitting in a room with Senator Bryan and the late Governor Kenny Guinn addressing the Economic Development Authority of Western Nevada (EDAWN) and its board of directors. We were discussing the State fiscal policy. All three of us concurred that we were not adequately funding our educational system and some form of

broad-based revenue was needed. I still believe that a broad-based revenue addition is the appropriate action for this Legislature. It is the appropriate solution for quality education in Nevada. As we addressed EDAWN and representatives of the Development Authority on a separate occasion, Senator Bryan pointed out that we were informed by those seeking to broaden our diversification that our education system was a primary obstacle in attracting other businesses. As a State, I do not believe we can allow that to continue. All of you have the opportunity to step up to the plate and hit it out of the park. I appreciate and applaud Governor Sandoval for bringing this issue forward.

Chris Nielsen (Deputy Chief of Staff, Office of the Governor):

Nearly a year ago, the Governor's Office began to look at different revenue options from other states and review our revenue sources. Our revenue sources are not only failing to meet the needs of the State, but they are also cyclical in nature. Many of our taxes are industry-specific, and others are not broad-based. If any revenue source were to be put in place, we need one that is broad-based, simple and fair. It needs to be friendly to economic development, be able to grow with the economy and be implemented quickly. We looked at increasing the sales tax, property tax and the MBT. We looked to impose a corporate income tax, a services tax, a margins tax and a gross receipts tax. For various reasons, all these solutions lacked being broad-based, fair and simple.

A true gross receipts tax does not recognize that each sector of the economy is different. It also taxes each dollar of revenue, and it does not mitigate the so-called pyramid issue. A services tax would take more than a year to implement and would have to include a tax on such services as commercial real estate leases, health care and haircuts. Consumers would bear the burden of that tax. A corporate income tax would take more than a year to implement and create a mini-IRS in Nevada. It is the least stable and the least predictable revenue option available. We looked at raising the MBT. Only a small portion of businesses pay this tax. Even if the small business exemption is removed, this system is not broad-based, and labor-intensive businesses would continue to bear a higher burden of the overall tax base.

In the end, we developed a unique plan that is fair, simple and broad. It is fair because it takes into account the uniqueness of each industry. It is less complicated because it eliminates calculating complex deductions, and it is

broad-based as it applies to all businesses. As designed, the anticipated yield over the biennium is \$438 million. This number equates to the Governor's proposed new categorical K-12 education spending plan. You may see S.B. 252 as complicated because of its size, but the guts of it are only 14 pages long and 20 pages make up the rate tables. The balance is the administrative shift between the Office of the Secretary of State and the Department of Taxation.

Jeremy Aguero (Principal Analyst, Applied Analysis):

I was asked to talk about how we got to where we are now. I will begin at the end. We have been down this road before as a State. We have had these discussions. What we present to you today is the culmination of many of those discussions. We will take many of the lessons we have learned as a State, and we will take lessons that other states have learned and develop an alternative plan that is elegant in its design and uniquely fitted for a state like Nevada.

One of the easiest ways to talk about how we ended up where we are is to start with the history. Mr. Nielsen alluded to the conversation almost a year ago when we talked about potential revenue alternatives. Like all those conversations, it starts with a whiteboard listing all kinds of different options. We start to talk about business taxes. It always starts in the same place; let us have a conversation about a corporate income tax. I have heard from some that the Governor's proposal is a type of corporate income tax. There are only so many ways to tax a business. You can tax at the top of the income statement, and you can tax at the bottom of the income statement.

Forty-five states have some form of corporate income tax. Corporate tax is one of the quickest taxes to be disposed of because it is among the least stable sources of revenue from a business perspective. Some people like it, and others are required to pay this tax even if they do not make any money. I hear that all the time. That is true for businesses like mine and like others. We pay property tax, sales tax and MBT regardless of whether we make a profit or not.

There are other problems with a corporate net income tax or corporate business tax. Those problems are stability and in some cases administration, depending on how the tax is structured. We often hear the creation of a mini-IRS in Nevada is something we are opposed to doing. We look at the IRS Code. It is thick and complicated, and we try to avoid that. Over the past 15 years, we have studied this type of alternative.

The Governor's proposal has almost no features of a net income tax. When we have the conversation about the net income taxes, it almost always goes to the exact opposite. If we do not go to the bottom of a company's income statement, we can go to the top of the income statement. That is the most stable source of revenue we could have as a state. We take it from total gross revenue, sometimes referred to as gross receipts. Since 2003, those conversations have been brief. I had the honor to serve as the chair for the technical working group for the Governor's Task Force on Tax Policy in Nevada 2002, and I authored the report with Guy Hobbs. That group came forward with a gross receipts tax as part of a broader tax package.

We know the challenges of a gross receipts tax. It treats every business exactly the same. Sometimes that is good. You can have high-volume, low-margin businesses. The ones I recall from the debate in 2003 are petroleum distributors and grocery store operators that operate on a very high volume and on low margins. If you treat them exactly how you treat everybody else, you are left with an inequity problem. The gross receipts tax also struggles with the pyramid issue, which is paying a tax on a tax on a tax. That is one of the challenges that come from a gross receipts tax. We knew it and thought we worked around it from the standpoint of having the broadest possible base and lowest rate. That challenge is one we could not overcome.

The Governor's staff told me we do not need any more revenue instability. Being at the top of the income statement is a nonstarter because a gross receipts tax is oftentimes a nonstarter for conversations in Nevada. We are forced to be somewhere in the middle. Every alternative between a gross receipts and a net income tax is some form of tax on margin or expense. It will always be a margin somewhere between the topline and the bottom line. That is why it is referred to as a margin. Some people have said today's proposal is a margin tax—a tax similar to Question No. 3.

What we have today is somewhere in between the top and the bottom. We chose an expense. We chose payroll. Payroll less an exemption for \$340,000 a year, less the cost of employer-paid health care, times the rate of 1.17 percent unless you are a financial institution or an industry that has special treatment. People have said that is easy. They are right; the tax is designed to do that. In 2011, then Assembly Speaker John Oceguera and then Senate Majority Leader Steven A. Horsford impaneled a group of business people to get together.

Conversations implied that this was a secret backroom conversation. That is not so. I had the opportunity to staff that on their behalf. They thought about all the things in our tax system. They talked about sales tax and property tax. They spent a great deal of time in that room and talked about all the possible alternatives. In 2011, our unemployment rate was 14.5 percent. Our State was struggling as the Governor outlined. Nevada lost one out of every six private sector employees. In the construction industry, that number was two out of every three. Some of us are still feeling the reality of that today.

They concluded having a tax based on payroll that created any level of disincentive toward hiring people and paying them more is bad tax policy. We went through model after model looking at different ways other states did it.

We looked at Texas and Ohio, the business and occupation tax in Washington, and income taxes from Florida to Utah to Arizona. We looked at how they worked, what was good and what was bad about them. The panel came away with a series of models that evaluated the tax incidence of the payroll tax Nevada has today. If you are in leisure and hospitality or health care or professional services and you sell labor, you are disproportionately impacted by that alternative. It was designed to do that. You will pay a higher tax to the benefit of capital-intensive businesses.

If I sell goods instead of selling labor, my tax liability is lower. If I build an office building and then rent it out, I deploy capital instead of deploying labor. I generate less tax liability in Nevada. This group of business people along with the Legislators looked all around the United States. They ultimately settled on a tax from the state of Texas as being a good alternative. This is the Texas franchise tax. We have come to know it in Nevada as the margin tax. This group did not come with the idea of raising additional revenue from that alternative. They talked about a rate of 0.8 percent—at the time, a sufficient amount of revenue to replace the existing payroll tax in Nevada. The general belief held that we wanted to have the broadest possible base and the lowest possible rate. We wanted businesses that were similarly situated to be treated the same. That plan ultimately morphed to the Horsford/Oceguera tax plan of 2011.

From there, we get to the teachers' Education Initiative, often referred to as Question No. 3. I have heard that this proposal is similar or the same as what

voters just turned down. This could not be further from the truth. If we think about what Question No. 3 did or did not do—or the margin tax as it was proposed and considered by the voters—there were all kinds of structural problems relative to how it was drafted. It employed a rate of 2 percent, which is somewhere between two and four times higher than the rate imposed in the state of Texas. It would have taken us from the middle of the pack to among the highest business tax states in the United States. The drafters left out provisions that exist in Texas to deal with revenues upon which taxes are already paid, past-due revenues and affiliated groups. All of these were left out. It made the alternative unsound, which was the basis for its defeat. There was certainly conversation about it on many levels. The difference between a tax that will generate approximately \$250 million a year in comparison to one that would have generated more than \$800 million a year is dramatically different.

The group brought this forward to have some additional equity, and there were other advantages to look at a tax like the one in Texas. We can learn from what other states have done. The Governor's Office has challenged us over and over again to not look at one state. We need to look at what various states are doing and take the best of each one. The most important element of this tax bill is the definition of revenue not taken from Texas but borrowed from Ohio. Ohio found a better way to do it. This is a hybrid. We are learning from our history and learning from the best practices from states that have gone through this exercise before. Some have gotten it wrong, including Texas.

Given things included in this bill, like the treatment of apportionment, some of the definitions and the way the rates were calculated, when we talked to Texas, officials told us the biggest challenges were defining the cost of goods sold and the cost of labor. We have eliminated that and streamlined it. The third thing the group of business people liked is that a fairly substantial portion of the Texas margin tax is exported. It is borne by businesses that do activity and engage in business in Texas but are not necessarily located there. Texas officials estimate that 30 percent of the revenue they generate is exported to businesses that avail themselves of the economy and the business climate in Texas but are not located there. They have nexus. There is a linkage but not physically.

What we did in Nevada was choose a payroll tax that allows all those businesses that do not have their employees here but sell goods and services in our State to pay nothing. We tax the businesses here. That is problematic.

We looked back a year ago at how these discussions started as we went through the history. The Governor said the tax needs to have the widest possible base and lowest possible rate. It has to look like our economy and has to be stable, equitable and transparent. This is sound tax policy. You heard testimony that the number of entities paying the MBT is approximately 12,000. The number of businesses paying the Business License Fee is 330,000. This is a wide base. This is how this became our starting point. We need to have a certain amount of money. The amount is a moving target.

The Governor and his staff moved to reduce the size of the budget brought forward. We looked at the BLF. What is the simplest way to generate revenue from the Business License Fee? You take every single business and determine how much to charge them. What about \$1,000 per business, and how much would that generate? This lasted about 30 seconds because that would mean a real estate agent or a mom-and-pop restaurant would pay the same amount as a hospital or a hotel-casino. The Governor's staff said that is a nonstarter. Bigger businesses need to pay more. We need to keep it fair.

We started to create some ranges. We created a range from \$0 to \$500,000, from \$501,000 to \$1 million and so forth. We had 10 or 15 ranges, and a number of iterations. We allowed the amount that each of the businesses pay in each of the categories to increase. We found a new problem. One of the most fundamental problems with Question No. 3 was that everyone talked about the fiscal cliff. If you make just under \$1 million, you pay nothing. If you make a little over \$1 million, you pay the full amount. What we have done is build in a number of fiscal cliffs. If we took a business that fell between the \$1 million and \$5 million threshold and said that business will pay \$25,000 per year, the effective tax rate on the business earning \$1 million is about 5 times what the tax rate would be on the business earning \$5 million. The Governor said that is not right. This is a problem. What can we do?

We did a couple of things. We need to have a rational basis for determining the rate for each threshold. We take a midpoint between \$1 million and \$5 million. We use the midpoint as our starting point to determine the rate. Ten revenue ranges are not enough. We need to have more ranges. I cannot build ten fiscal cliffs or have this inequity between these individual brackets. We created a number of alternatives. We created them going from zero to some number all the way up to \$1.3 billion. We ran some that had 200 ranges. It got to be

ridiculous. It was hard to draft with the numbers we had. I cannot imagine if we went with the drafts that had 300 distinct ranges.

Ultimately, we settled on distinct ranges of 15 percent each. No business would be higher or lower within each of those ranges than 15 percent. We then picked the midpoint of each one of those ranges and determined the rate in order to generate \$250 million a year. That started to seem like we had something good. It was simple and equitable, and it worked in a number of ways. It was clean, and we could work through things.

It made some sense until we started to vet it. We found that we had backed into the same problems that exist in a gross receipts tax because we were treating every industry exactly the same. The grocery store company and the petroleum distributor would be in the same range and would have paid the same amount. The Governor and his staff challenged us to think harder and do better.

We had to find a way to treat unlike industries differently. We did not take that lightly. We were building in equity. We looked at states like Washington, Ohio and Texas to build on what they had. We had a competitive advantage from a state like Texas that does a remarkable amount of research relative to the tax incidence. One of the tables Texas provides has every one of the major industries we are talking about here. It shows how much those industries generate in gross state product, how much they generate in revenue and how much they pay in taxes. There are many calculations before they get to the tax calculation. They deduct the cost of goods sold, labor or a 30 percent standard deduction.

We can look at how each one of these sectors is structured differently—how construction is different from health care and how health care is different from hospitality and from manufacturing. We looked at how they are different from what they would take from the calculation in order to be treated at a more equitable level. We built that into our tax rate. We said, we take the total amount of construction revenue and we need to generate X amount from that, what would the effective tax rate have to be? We can call this a margin-adjusted tax rate. You can call it a rate applied to gross.

We took the individual rate and adjusted it for how much revenue we need to have in Nevada. A different rate used for construction versus manufacturing

versus retail was applied to the midpoint in each one of those discrete ranges. The table that has all the industries across the top and the discrete ranges down the left-hand side is nothing more than the outcome of that. We need to embrace those to have the widest possible base and stability. At the same time, we need to find a way to have the equity that would not otherwise be present from a traditional gross receipts tax.

I began at the end and I will conclude the same way. The process has been thoughtful, and the analytics are sound. The Governor's tax proposal is elegant in its solution to what we strived to do in 2003 from the Governor's Task Force and in all conversations I have watched regarding good tax policy that have come from committee hearings.

Deonne Contine (Executive Director, Department of Taxation):

I will walk you through the bill, not line by line but touching the main concepts.

Provisions in sections 3 through 13 include the definition, fiscal year, gross revenue and Nevada gross revenue. It has the definition of North American Industrial Classification System (NAICS), pass-through revenue and state business license. The main definition in section 3 for businesses is the carryover from the current business license. That includes all persons who perform services or engage in a trade for profit; a natural person who is required to file a Schedule C—sole proprietor—or a Schedule E; or a natural person who is required to file for federal income tax purposes on earned rental income or royalties or other funds. Schedule F is the farming component. The final entity required to obtain a Nevada business license is any entity organized pursuant to Title 7 of the *Nevada Revised Statutes* (NRS), partnership, LLC or corporation, or other legal corporate entity.

A business cannot conduct business until it receives a business license.

Senator Ford:

Could I get your definition of business and the exceptions? As you go through these definitions, give me examples of businesses that fall within the definitions and then, as you get to the exceptions, what businesses are not defined.

Ms. Contine:

The definition is a business that operates in Nevada, performs a service or engages in a trade; is not a sole proprietor or one of the other natural persons under the statute; or is not an incorporated entity. This is meant to include all businesses no matter what type of structure they create. If you are a business owner and you do not incorporate but you operate in Nevada and you sell items or provide services, you need a business license. If you are a sole proprietor and you file a Schedule E or are a farmer, you need a business license. You may be an incorporated entity that also operates in Nevada, provides services in Nevada and sells things in Nevada; you could be in both categories. It is meant to address those type of entities.

Senator Ford:

You will get to what the term does not include, and I would like to hear examples. If you know names of companies, that would make it more realistic for me. I would appreciate that too.

Chair Roberson:

We will take Senator Ford's question. We will wait until Ms. Contine has finished her testimony and then everyone can ask questions.

Ms. Contine:

Section 13 further clarifies what we would consider a deemed business. That includes the Title 7 entities. The business would have an office or other base of operation in Nevada. The business would have a registered agent in this State or pay wages to persons who perform duties or services in Nevada.

Section 3 explains excluded businesses. These entities do not have to apply for, file or pay the quarterly BLF. They include governmental and 501(c)(3) entities. All entities that have a 501(c)(3) status from the federal government are exempt. So is a home business that earns less than 66 2/3 percent of the average annual wage—currently \$28,000 per year—and a person who rents four or fewer dwellings. All of these provisions are carryovers from statute. I am not sure why the four or fewer rentals is included. I could try to research why it was put in the law and do some legislative history. We pulled that over from statute. Nonprofit businesses under NRS 82 or NRS 84 are exempt. They are specifically excluded as Title 7 corporations that are nonprofits.

Credit unions are prohibited from being taxed by the State. As long as credit unions have the charter under NRS 678 or the Federal Credit Union Act, they are not subject to federal income tax. A series of trusts are excluded. Those types of trusts are organized pursuant to federal tax law and the revenue is not taxable. I cannot give you an example now, but I could get that information for you. The idea behind those entities is that it is the same idea as when their income is exempt from federal income tax; we will treat them like a 501(c)(3). That goes for 401(a) trusts.

Passive entity is an entity set up as an investment mechanism. The business might be a board member or have an interest in a passive entity, but someone else manages the assets of the business and is not actively involved in the management of that revenue. We would not count that entity. The definition of passive entity is it has to have a federal gross income and consist of at least 90 percent of the following: dividends, interest, investment revenue and designation as an investment entity.

As for calculating gross revenue to determine the measure of the fee payment, the broad definition is in sections 5 and 6. Gross revenue is broadly defined to include the total amount earned from conduct of a business in this State without deduction for any cost of goods sold or expenses. It includes revenue from the sale of business property, from the performance of services and from another's possession of your business property or capital. Nevada gross revenue is the revenue you gain from conducting business in Nevada.

I talked previously about the entities that would not be subject to the Business License Fee. These businesses are subject to the BLF but can deduct certain amounts from revenue calculations. The following can be subtracted from gross revenue: the revenue prohibited from taxation under the State or U.S. Constitution or bond or security interests. We have specific industry exemptions for revenue calculations based on the fact that some industries already pay a revenue-based tax. The first one is the revenue used to determine the license fee pursuant to NRS 463.370, which is the gross gaming revenue license fee calculation and the revenue from Net Proceeds of Minerals Tax pursuant to NRS 362.

Chair Roberson:

What section are you in?

Ms. Contine:
Section 20.

Chair Roberson:
Pages 11 and 12 of the bill.

Ms. Contine:
Under NRS 680B, the insurance premium tax, the insurer pays 3.85 percent of the net direct premium written. If the insurers are paying on that revenue, they can subtract that from the Business License Fee calculation.

The next one is the health care provider or health facility subtraction. A health care provider can subtract 100 percent of the payments from its revenue calculation it receives from Medicaid, Medicare, Children's Health Insurance Program, (CHIP), Fund for Hospital Care to Indigent Persons; services for workers' compensation claims; and any uncompensated care. That is 100 percent for health care providers and 50 percent for facilities. Facilities are defined in the statute as hospitals, surgery centers and facilities that offer health care.

Employee leasing companies can subtract from their Business License Fees revenue calculations and the payments they received for wages, payroll taxes, employee benefits and workers' compensation benefits for the employees leased by the client company.

Pass-through revenue is another subtraction from gross revenue. That is in section 8 on page 4 of the bill. The concept to subtract out pass-through revenue is to prevent the pyramid issue. The pass-through revenue included in the definition is revenue required to be distributed to another person or governmental entity; taxes collected from a third party and remitted to a taxing authority; reimbursements for advances made but not related to sales of goods or services; amounts mandated by contract to be paid to another for sales commissions or for subcontracting agreements; amounts that lawyers hold in their trust accounts or amounts they gain in revenue that they pay to a lawyer who is not part of their firm; and affiliated group transfers. If an affiliated group has two or more businesses controlled by one or more common owners or members of the group, the transfer of the revenue is pass-through revenue. It would not be counted in the revenue calculation.

You would not calculate several other types of revenue. Some of them have the same concept we have talked about. Some of them are carryovers from other statutes, such as bad debt or returns or refunds from sales and use tax and revenue attributed to principal or loan payments. The revenue you gain is interest and not the principal that you get paid back.

I will demonstrate some of these concepts with actual numbers and where you would look to find your fee payment in the bill schedule.

Section 21 determines gross revenue. The determination of Nevada gross revenue concerns sales and services that take place in Nevada. If you are located in Nevada and provide a service to a resident outside of Nevada, you would not include that in your Nevada gross revenue. It is the same for exporting manufacturing goods. If you make something in Nevada and ship it out of state, it is neither used nor sold in Nevada and thus not included.

Sections 22 through 49 address the actual fee payments. For each industry and revenue section for your industry, as determined by NAICS code, you go to those sections to locate fee payments.

Sections 14 through 18 of S.B. 252 have administrative provisions related to the BLF. The Department of Taxation will administer and enforce the BLF payments, and the money will be deposited into the General Fund. It requires businesses to keep records and allows for the Department to review those records. It allows the Department to reimburse costs acquired in auditing or reviewing records out of the State. In section 18, there is a provision to apply for the license. The license would be applied for in a similar way as applying for a sales tax permit. You would request that the license be issued, and then payments would be due on the next calendar quarter after receiving your business license. This is a quarterly fee schedule. If you apply for your license on February 10, 2016, your first license payment would be due 45 days after the April 30 close of the quarter. It would include the revenue from when you obtained your business license through March 31, 2016.

Section 19 also states that businesses must designate their NAICS codes when they make their first return fee payments. Businesses would need to use the NAICS codes every time they filed fee payments unless they request that the Department of Taxation review their NAICS classifications with some type of

determination that they primarily engaged in businesses other than those originally signed up for by the codes.

Section 19 also allows a fee payer to apply for a 30-day extension to file and pay and allows for amended returns.

Section 50 states a business's method of accounting for gross revenue for a calendar quarter for the purposes of determining the amount of the State Business License Fee must be the same as the method of accounting for federal income tax purposes for the business's federal taxable year that includes that calendar quarter. If a business's method of accounting for federal income tax purposes changes, its method of accounting for gross revenue pursuant to this chapter must be changed.

Sections 51 through 62 are additional administrative provisions, some of the same administrative provisions we have in other chapters we administer that allow for interest, a request for refund and interest on a refund. The Department may sue if it makes an erroneous refund, prohibiting the payer from enjoining the collection of the fee. Those are standard administrative provisions we have within Title 32.

Sections 63 through 159 are conforming language and changing from the Secretary of State to the Department of Taxation. It will be changed wherever it occurs in statute.

Section 160 provides that existing businesses must obtain a business license by September 30. The existing license is good until then or until it expires, whichever is sooner.

Section 161 is an important provision as we transition. It allows the taxpayer some leeway if the taxpayer attempts to comply with the new provisions and confusion results. If the taxpayer makes a mistake and there is no willful attempt to evade or not pay the new fee under the quarterly schedule, this prohibits the assessment of penalty and interest up until September 1, 2016.

Section 162 explains the regulations the Secretary of State has adopted regarding the BLF will remain in effect until the Department of Taxation amends the regulations.

We will use basic scenarios and then move to more complicated ones. The first one is a retailer who has a NAICS 44 or 45 and revenue from the sale of clothing in Nevada. I will be referencing the fee table locations in the bill. If the retailer has revenue of \$500,000, the retailer can find the fee is \$578 in the table.

The second one is a manufacturer with a NAICS 31, 32 or 33. It sells \$1 million worth of goods and exports goods with total revenue of \$400,000. The manufacturer looks at the table, calculates the revenue in Nevada as \$600,000 and pays \$627.

The next few demonstrate businesses that may do different things within their businesses or have an entity that may have different businesses under the same business entity. You have an auto body shop with a NAICS 81. If you go to the NAICS Website and type in auto body, you will come up with NAICS 81. We would say the business is engaged in providing car repair service. When someone gets a car repaired, the shop sometimes has to sell parts. Those parts are sold at retail, and the shop collects and remits sales tax from the sales at retail for those parts. You as a shop owner earn revenue from your services and revenue from your sales. You use your NAICS 81 because that is your primary business. You add your total revenue together, find your revenue in the fee table and pay on that total revenue. If you have revenue from parts sold at \$200,000 and revenue from services provided of \$500,000, your total revenue for purposes of calculating the BLF is \$700,000 and your fee is \$1,125.

The next one is a business entity. You have two unrelated businesses under the same entity, such as a laundromat and a pizza parlor. The laundromat has a NAICS 81 and is a service entity. The pizza parlor has a NAICS 722. You use the category where the majority of the revenue is generated. If you have \$150,000 in revenue from the pizza parlor and \$50,000 from the laundromat, you combine the two businesses. The pizza parlor generates most of the revenue, so you use NAICS 722. Thus you have \$200,000 in revenue, and your fee payment would be \$437.

A hospital has \$2 million in revenue, and \$700,000 of that revenue is generated by payments from Medicare, Medicaid and CHIP. Under the revenue subtractions, the hospital is entitled to subtract half of the \$700,000 from its revenue calculation. The hospital would subtract \$350,000 from the \$2 million

for purposes of calculating the Business License Fee. The revenue would be \$1.650 million, and the fee payment would be \$3,490.

The next one is a hotel-casino. The hotel-casino earns \$10 million in revenue, and \$5 million is subject to the gaming license calculation under NRS 463.370. The hotel-casino has \$5 million in revenue for purposes of calculating the BLF. The hotel-casino pays \$11,209 on \$5 million in revenue.

The next one is a general contractor who has a contract to pave roads in Nevada for \$10 million. The general contractor enters into a variety of subcontracts for services related to the paving. Subcontractor payments are a total of \$8 million. Payments to subcontractors are considered pass-through revenue and subtracted from the revenue calculation. For calculating the BLF, the contractor's revenue is \$2 million and the contractor pays \$1,759 under NAICS 23.

The next one is a lawyer, and this is a services example. The lawyer lives and works in Nevada but has clients in Nevada and Utah. He has total revenue of \$110,000. His revenue for services provided to Nevada clients is \$100,000; Utah clients, \$10,000. The lawyer uses the \$100,000 as his revenue calculation for the BLF and would pay \$203. He does not include revenue from services provided to Utah clients.

The final one has to do with an affiliated company. An entertainment company has a total revenue of \$1.5 million. The company owns a subsidiary that has revenue of \$500,000. The combined revenue for calculating the BLF is \$1.5 million. The revenue from the wholly owned subsidiary is pass-through revenue because it is part of an affiliated group. In that case, the fee payment is \$3,824 under the entertainment category.

Assemblyman Hickey:

My question is for Jeremy Aguero. You mentioned that we borrowed from the Texas experience and as much as 30 percent of taxes collected under the Texas margin tax could be exported out of the state. Could you give me some examples of the kind of business with a nexus for that in Nevada? In addition, can you comment on some of the problems with the Texas margins tax? During the Question No. 3 debate, we did not refer to it in glowing terms. We also

heard about litigation and amendments to improve or remedy problems with it throughout its history.

Please talk about the tables themselves. In Texas and Ohio, a lot of resetting occurs. We have not passed this yet, so we cannot calculate what might happen in subsequent sessions. Stability is important, as you noted, and you attribute that to this tax. If we enact this, what safeguards exist to avoid endlessly expanding, contrasting or making the tax a lobbyist haven for changes?

Mr. Aguero:

The first question was relevant to the Texas experience and the 30 percent export. I can give you some examples. Texas has a major auto manufacturer. That auto manufacturer pays the same taxes as an auto manufacturer importing cars into Texas. They are very close to being the same. Major corporations from GM to Nestle outside of Texas are putting their goods on a truck, moving them across the state, availing themselves of the market there, selling product to people there and availing themselves to the court system and protections associated with that.

We can look at those major corporations. I think of computer companies that ship goods to our State. If you ask me about the export level, I will tell you it will be somewhere between 15 percent and 25 percent, based on the other changes we have made. On the other side, I suggest that might be low from the standpoint that we have a competitive advantage over Texas. We tend to import a great deal of what we consume in the State of Nevada. We are one-tenth the size of Texas. Our economic base will benefit from more people selling things into our State that continue to have a nexus here. I am happy to walk through additional examples if that would be helpful.

The second question you asked was about the problems with Texas. There are a number of them. People either like a tax or do not like a tax. The principle problems they run into are definitional. What is revenue? What is Texas revenue? How do I apportion my revenue in the state? What are my revenues all over the globe versus Texas, and how do I handle that? There are questions of the costs of goods sold. Am I properly including that? We went through some of the exercises when we were analyzing other questions. What is the cost of labor? How do I bring that into cost of goods sold and all of the debate we had

relative to Question No. 3? Is it the same as the federal definition? We have specifically taken those things out of what is being proposed in this bill.

I will point to intangibles. Things like copyrights can be wildly complicated. How do I apportion an intangible into a state? That is difficult for Texas. We eliminated that by choosing a definition we believe is more streamlined. The other side I mentioned has to do with the apportionment, such as the proper apportionment of revenue into the State of Texas. It is always a challenge. The way we avoid that problem is by justifying Nevada revenue. That is what we will charge you, not an apportionment associated with that. Those are the two largest issues.

Any tax has to be adjusted over time. The long history in Nevada is that we have evolved our sales tax from a 2 percent rate to what it is today. Our property tax evolved with the partial abatement caps we have today. Governor List talked about the tax shift and the reallocation of those funds. I do not want to leave you with any other impression than that it is inevitable. It is with our payroll tax, property tax and our sales tax. It is less about the choice of revenue and more about the fact that the world around us is changing rapidly as we try to keep pace. If the crux of your question is whether what the Governor proposed relative to the BLF is a more stable long-term solution, my answer to that question is absolutely yes.

Chair Armstrong:

This is not a policy question but more of how we arrive at the revenue number of \$438 million. Because this is a new tax, I wonder how reliable the actual data is. We have a limited amount of information related to gross revenues of businesses in this State. How did you estimate how many businesses are in the different tiers to come up with that \$438 million revenue? What factors played in for Nevada businesses to be different from Texas, Ohio and Washington, and how does that affect the rates? Since this bill came out, do you expect these rates will have to go up or down based off the number we will have to get for that budget number?

Mr. Aguero:

I will try to work through the first one and then come back to what needs to be adjusted with the estimates.

We have spent much time over the last decade looking at various different revenue alternatives, including the Governor's gross receipts tax in 2003 to where we are today with the proposed BLF. Each one of these taxes is different, but the tax bases are similar because we have borrowed a lot from the research toward the 2011 margin tax and the Question No. 3 analysis. It was a little bit different but provided the same general base. You question how do you know the base and how do you get there?

Texas reports all its gross state product for each individual industry. We know how much gross state product is in construction, manufacturing and so on. The state also provides detailed information including total revenues and receipts for each one of the revenue categories. Some are going to be higher and some are going to be lower. Texas is roughly 10 times the size of Nevada with regard to gross state product, revenues, employees and personal income. If I have gross state product and I have revenue by industry, I can look at Nevada's gross state product, and I can see our gross state product looks different. The structure of the Texas economy is different than the structure of Nevada's economy. I look at the relationship between the revenue produced and the structure of the economy there and the structure of our economy to get what the revenues produced.

We can test that against other things. We can use models like the IMPLAN System, data and software used for planning analysis, that looks at the output and input of individual states. It is accurate sometimes. We can look at the U.S. Census Bureau's Economic Census. The data is old but gives us a basis and a gauge for the aggregate size of the economy. Your question was much more insightful than that. The economy is billions of dollars in size, but this is applied to various industries. How do you know how many companies fall into each of these categories on this grid that you have provided? Briefly, we have to do the best we can to estimate it.

We started with data from The Dun & Bradstreet Corporation, which reports on all the businesses that operate in Nevada. We can get similar data about employer businesses from the Department of Employment, Training and Rehabilitation. We can get nonemployer businesses from the Economic Census; the Small Business Administration provides us a framework for the total number of businesses. The end game is the number of Title 7 and non-Title 7 businesses registered with the State. That includes 330,000 businesses. That gives me an

idea of the total amount of businesses that pay BLF and the total base in Nevada.

Chair Armstrong:

If we are still estimating or forecasting this number, how do we come up with a budget that is down to the penny for this? We should be generating estimates of the top and bottom of the range of what this will produce the first year rather than saying it is a concrete \$438 million.

Mr. Aguero:

That is accurate. Maybe you are asking for the ham sandwich, and I am giving you the history of the pig. By going through that exercise, we looked at all businesses. We looked at those domiciled here, domiciled out of here and determined the total. We went back to the total size of the economy and the total number of businesses to get as close to an estimate as we can. You are right. I do not want to leave you with any other impression. It is an estimate. It is our best estimate based on what we observed.

It gives me some degree of confidence that other analysts went through the same exercise. They looked at it and came slightly above our revenue and slightly below the aggregate size of the economy. We are in the middle, and that makes me feel okay. Some people in Texas who are very knowledgeable about this looked at our estimates and said they would do it the same way. The level of precision I can provide is based on the availability of information. For purposes of our conversation, it is to the penny to get to a rate and a schedule that we thought would get to a specific number. We reduced our calculated tax rates to get there.

Chair Armstrong:

I would like to know your confidence level on this from 0 percent to 100 percent. Will we get to the revenue we need so we do not have to convene a special session to make up for revenue not generated? I understand that the first time Texas proposed this, the state ended up with a \$49 million shortfall.

Mr. Aguero:

You have a good point. As an analyst, this makes me nervous to give a 75 percent chance of coming in over expectation or a 25 percent chance of coming in under expectation, based on my knowledge and what I know.

Assemblywoman Kirkpatrick:

I want to start backwards and work forward. The two items I want to talk about today concern logistics. Section 164 talks about when this all takes place. It talks about the regulation process, and it talks about the logistics. Logistically, I want to know the expectation for businesses when this would take effect. It says passage upon approval. What is the date businesses would start to pay? The last line of section 164 mentions the expiration of section 69, which amends a section of statute relating to a tax credit program. Is the expiration date of 2036 based on credits issued? What happens if credits are outstanding but the section expires? We should be careful about tax credits.

Ms. Contine:

The effective date of the new process for the BLF is July 1. The first return would be due on November 15. That is based on the revenue from the first 3 months of the fiscal year.

Assemblywoman Kirkpatrick:

I want to understand how we get through regulations and how we get the staff hired and trained. When we have enacted revenue changes in the past, we gave businesses a window so they knew how to put it together. Logistically, I want people to understand that process. There is the regulation process, there is the Open Meeting Law that requires 60 days. How does all that work?

Ms. Contine:

In my office, we intend to get a head start. Normally, we wait to see if things happen, but we have had discussions along the way about things we could be doing now to implement some of the technology changes and pull resources from other places to help deal with staffing. We have a budget request for \$4 million toward IT costs and additional staff. The regulation part is a challenge. There is enough for us to do. My chief deputy is drafting regulations. We are considering other clarifications we need before this is passed. I feel confident.

We have had multiple meetings, including meetings with the Secretary of State about getting data from that office. We are connected through Nevada's Business Portal where businesses can register. If the business is a seller, the information comes to the Department. We are having those conversations about how we transition that data. We should be ready to accept the first returns in November.

Section 69 is a conforming change from the Secretary of State to the Department of Taxation. The change has to do with the credit program, and the law says the credit program expires on June 30, 2036. The bill drafters are changing the small provision to ensure everyone knows it expires by limitation in 2036.

Assemblywoman Neal:

I have a question from section 12, subsection 1 that relates to section 20, subsection 1, paragraph (m). In section 12, subsection 1, the portfolio income of dividends and interest is considered passive, and you use 90 percent of the following income. In section 20, subsection 1, paragraph (m), dividends and distributions from corporations and proportionate shares of receipts and income from a pass-through entity are among the subtractions for gross revenue. Does paragraph (m) dilute the activity where we end up with less dividends that will now be considered active or passive?

Mr. Aguero:

The only difference is between a passive and active entity. The treatment in section 12 specifically deals with the definition of a passive entity where 90 percent of the revenue has to be there. The other piece only applies if you are in an active entity and how that revenue is treated. Does the active entity have the ability to reduce revenue or have it treated specifically based on the definitions you just used? The answer is yes. Those are two separate entities. One is active and one is passive.

Assemblywoman Neal:

My next question on section 20, subsection 1, paragraph (o) relates to lines 27 through 30 on the hedge fund. Line 27 says "For the purposes of this paragraph, receipts from the actual transfer of title of real or tangible personal property to another business are not receipts from a hedging transaction." In a hedge transaction, a selling member and a buying member are treated

differently. They can be treated as separate entities for some purposes; but others can be treated as a division of a single corporation. If they can be treated as a division under a single corporation—and there is an actual receipt or movement of real property between the two in an intracompany situation—does this exclude that money?

Mr. Aguero:

The brief answer to your question is yes. This is belt and suspenders. In the other provision, we specifically exempt out anything under IRS sections 1221 and 1231, which are the capital assets I just disposed of as a business. If you sell your business, that is not business receipts. You are not in the business of selling your own business. Here, you are talking about a hedge transaction with an affiliated group or special purpose vehicle created to undertake that. The answer to your question is yes.

Assemblywoman Neal:

An intracompany transaction, if Seller A sells to Seller B inside of the company, could be a gain that has to be treated as taxable income, not a tax liability.

Mr. Aguero:

The answer is yes. Then we have to go back to the fact that those two entities are an affiliated group controlled by the same people. We exclude it here and exclude it there under the definition of an affiliated group. The whole idea of these provisions is to limit the pyramid issue. The idea is that a transaction between Group A and Group B could involve the exact same company. You have set up a special purpose vehicle to undertake this purpose. We do not want to double tax anybody. Of all the provisions in that section, you picked the most complicated one.

Assemblyman Trowbridge:

I read the section on gross revenue which specifies it is the total amount realized by a person conducting business in the State. It is pretty clear. I went to some other sections. Could you explain to me why the revenue from insurance companies, including premiums, and the revenue from casinos are excluded from determining gross revenues? Another section talks about the 15 percent cushion that exists within the brackets. Those cushions accommodate when business increases. Do those same cushions apply when the business decreases? Have we provided any safeguards for whenever the

inevitable happens? I say the inevitable because you have multiheaded businesses operating under the same business, such as having a laundromat and pizza shop. We will experience some creative accounting to manipulate the gross receipts so it fits in the category where the fees will be the least. Do you have any safeguards to prohibit that from happening

Mr. Aguero:

Regarding revenue exclusions, you picked two of the largest sources of revenue in Nevada subject to a gross receipts tax. Gaming revenue, which is exempt from this, is subject to as much as a 6.75 percent tax. The effective tax rate of this particular tax works out to 0.16 percent. It is much lower in comparison. A substantial share of the revenue from major hotel-casino resorts already generates in excess of \$700 million. That is twofold. It is already subject to a tax. Even after this tax comes out, that industry continues to bear more than 55 percent of all the business taxes in the State, including the BLF we are talking about, the payroll tax and industry-specific taxes such as mining and gaming.

The second element of insurance premiums is subject to the Insurance Premium Tax in Nevada. Texas exempts out those subject to insurance premium taxes. That rate is much higher than what is being applied here. Insurance companies pay other taxes unless they have revenues other than those already subject to this tax; these would be exempt because they already pay it.

The cushion is structurally creating a range that avoids the fiscal cliffs in each one of those categories. You ask what happens? Do those ranges have to be adjusted over time? We know there will be normal increases. Inflation happens. We have every expectation that we will continue to bring in new companies that are structured.

How will those ranges adapt? The vast majority of businesses will be in the top end of the ranges. The system will allow companies to move through those ranges. As they grow, they will pay more. They will always be within 15 percent of every competitor within their industry that generates the same amount of revenue. The reason for the 15 percent is to level the playing field within each one of those industries. Have I answered your question?

Assemblyman Trowbridge:

You addressed the range. That applies to increases and decreases in revenue to stay within that block, and that determines it.

Mr. Aguero:

If I am in one block and all of a sudden next year, I make \$500,000 less, I move up the range. If I make \$500,000 more, I move down the range.

Ms. Contine:

I will talk about provision enforcement. We think about two things with something like this: the education of taxpayers and ensuring they are compliant. That is what we do with the programs we administer. As I explained to Assemblywoman Kirkpatrick earlier, as we go through the transition, our agency's main focus is the best way to get information out there. How can we best notify taxpayers of the change? The top priority is education. We audit businesses. If there is not complete compliance right away, we will look at the businesses as we audit them for other reasons. We can educate taxpayers as they undergo an audit. The bill has a provision that allows businesses to have a waiver of penalty and interest if they attempt to comply and do not get it right or are confused. That protects the taxpayer.

Many questions surface about the NAICS shopping. Entities may attempt to move from one code to another in order to get a lower rate. We have close to 200,000 taxpayers in our system. When you register with the Department of Taxation for your business license, you include your NAICS code. A provision in the bill addresses the issue of changing your NAICS code. There is a process to do that. Businesses will need to explain why they are not primarily engaged in the business as registered. Rare instances may occur where an entity that has multiple businesses changes its model. Businesses need to tell us of such changes. There is some protection in the provisions for compliance. We have good tools in the statute to deal with these issues.

Mr. Nielsen:

Three databases house NAICS codes among the Department of Taxation, the Secretary of State's Office and the Employment Security Division in the Department of Employment, Training and Rehabilitation. These three sources have the codes for every business in Nevada. I do not know if they are 100 percent correct; a few may be erroneous. We have the infrastructure in

place now. It is not as if once this program comes online, some businesses would apply for a NAICS code with a lower rate. We have the information.

Ms. Contine:

If a taxpayer registers with a NAICS code that does not match, we have processes and resources to use if we question the information. We would contact the taxpayer to clarify the NAICS code. We deal with that now.

Assemblywoman Dickman:

You gave some examples from the tables. Could you clarify the manufacturing fee for \$600. Is that quarterly or annually?

Ms. Contine:

All of the examples are quarterly payments.

Assemblywoman Dickman:

I have many friends who are physicians. They are lucky to collect one-third of their billed fees. Would they have to pay the fee on the billed amount?

Mr. Aguero:

There is a specific provision for health care providers. We hear about this a lot, and we are concerned about it. We hear about Medicaid reimbursement rates and Medicare. Health care providers in governmental programs with rate schedules have the ability to subtract that from their revenue. They do not pay the fees on that. In addition, any uncompensated care is subtracted for providers. As an example, providers collect only 30 percent and they provide 70 percent of uncompensated care. If the 30 percent is not related to any of the government programs such as Medicare or Medicaid, they only pay on the 30 percent; if 20 percent of that 30 percent comes under government programs, the providers pay based upon the 10 percent.

Assemblywoman Dickman:

That sounds like some complicated record-keeping for them.

Mr. Aguero:

The vast majority of health care professionals understand who pays them and whether they are collecting. All they are required to do is subtract who does not pay them and what they collect from government programs.

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Assemblywoman Dickman:

I agree. If audited, would they have to show you extensive records?

Mr. Aguero:

I will defer to the people who do the audits. My guess is they would go to their invoices. Invoices exist for all of them, including small businesses or health care businesses. It is straightforward.

Assemblyman Nelson:

Pursuant to the bill, we are shifting from the Secretary of State to the Department of Taxation. Will the annual fees, initial filing fee, initial list and the annual list for an LLC stay with the Secretary of State? If a company wants to organize as a new LLC, it goes through the Secretary of State and then pays its quarterly tax to the Department of Taxation.

Mr. Nielsen:

That is correct. The incorporation fees and annual filing fees will reside with the Secretary of State's Office. The business fee will shift to the Department of Taxation. The existing Business Portal will remain in place and be made available for taxpayers to pay their BLFs. That money will be pushed over to the Department of Taxation, as will the compliance duties.

Assemblyman Nelson:

I am looking at sections 5 and 13 regarding conducting business in the State and the definitions of revenue. A company from California comes to Nevada and may not have a registered agent and may not register as a foreign corporation. Do we still tax the company for the portion of things attributable to Nevada? Will you try a unitary tax as in California? Did the U.S. Supreme Court strike it down?

Mr. Aguero:

The brief answer to your question is correct. You gave a number of examples at the front end of your question with a paper corporation just filing in Nevada for purposes of its formation. This entity does not have any employees, is incorporating here for domicile purposes and pays the minimum amount of \$400. We have a lot of those in Nevada. We are a probusiness state for businesses that operate here traditionally and those that may not. Those

businesses should not pay any less than the minimum amount applied to every business that has employees and makes an investment here.

The second part of your question is more complicated where businesses do not have business licenses and just operate here. Imagine for a moment that they do have nexus with the State. In that case, the intent is they should have business licenses. A national corporation that does not have its business license here will be required to pay on its Nevada revenue just like any other business operating here, doing business here, availing itself of our market or enjoying protections of the State.

Assemblywoman Diaz:

I want to expand on Chair Armstrong's questions regarding the data underlining the \$438 million figure projected under this plan. I do not know if he asked for the data or the actual copies of how we arrive at that number, but I request that information. Does the BLF data correlate with the general profitability of the industry in Nevada, or does it look at the contribution of the industry to Nevada's GDP?

Is the allocation of revenues generated by the BLF toward our K-12 education system made explicit? Sometimes, things happen and monies have to spread. I want to see that this money is explicitly for education.

Mr. Aguero:

I will answer the first two questions and defer the budget question regarding the allocations of funds.

We worked with your staff on the data and will share as much as you would like to see. You are welcome to look at the analyses we did.

We look at the business margin somewhere between the top line of the gross revenue and the bottom line of the gross revenue. One of the analyses we did was to take IRS data for corporations and partnerships from 250 different industries. We wanted to learn the potential impacts. We did that to see the proper location and how we would calculate that for someone who sells pool tables or is in the construction industry. We wanted to understand the tax incidents. That provided us with a way of looking at the profitability associated with that business. That is where it starts to get tricky.

If we get all the way down, some industries have no profit in a single year and are very profitable in the next. When we look at 5-year averages, some are underneath and some are above that mark. If we look at the gaming abstract, our biggest industry in Nevada—gaming—has had 7 years of reported negative income. If we did bring it down to the bottom line, that industry would pay zero. We would get to the instability.

There is another element to this. I was concerned if we went all the way down to the bottom line, if we started talking about making it as broad as possible—everybody from sole proprietors to general partnerships to the biggest corporations we know—and bring something onto the profitability, for example of a sole proprietor, it would get dangerously close to being personal income tax, which is prohibited in the Nevada Constitution. The bottom line is the income and top is gross receipts, and somewhere in the middle is exactly how it is defined. I will defer the last question to Mr. Nielsen.

Mr. Nielsen:

The Business License Fee revenue goes into the General Fund. The Governor's budget has been built with separate line items and separate categorical programs. There is \$430 million worth of new K-12 funding. The budgets are in separate budget accounts in the Governor's budget. Non-DSA programs are fenced off. We are dealing with that through the budget process. The intent is for us to raise \$178 million in Year 1 and \$250 million in Year 2. There are some timing issues as to when payments are posted. We may be submitting an amendment tomorrow or next week to move back the effective date by a quarter. Certain payments post at a certain date, which refer back to the previous fiscal year. The intent is to raise \$430 million through the Business License Fee—three-quarters of the revenue in Year 1 and four-quarters of revenue in Year 2. I hope that answers your question.

Assemblywoman Diaz:

Yes. If we could get that data ASAP, we would appreciate it.

Assemblywoman Bustamante Adams:

My question has to do with section 3. I know the law has exemptions. Is there any conversation about nonprofits and how they could be removed or take a look at including them in the process? I represent a large concentration of small businesses per square foot in Clark County that exemplify the new Nevada. They are very diverse. Does your training include things for people who have a different dialect or have English not as their primary language? Is that included, and how will you approach that?

Mr. Aguero:

The brief answer to your question is the nonprofits are exempt; they are not considered business for this purpose. Your question is a fair one. When we try to narrow that field, it gets harder and harder as far as who comes in and who comes out. We simplified and removed the 501(c), exempting the classification.

Assemblywoman Bustamante Adams:

Can you clarify a 501(c)(3) based on the definition in section 3?

Mr. Aguero:

A 501(c) is anything nonprofit, religious, charitable, fraternal or other organization, including everything else that qualifies as a tax-exempt organization pursuant to the Internal Revenue Service code. The concept has it all inclusive for any entity that qualifies as tax-exempt for federal tax purposes.

Assemblywoman Bustamante Adams:

My concern is everyone can claim himself or herself to be a 501(c). There are many 501s.

Ms. Contine:

I had many conversations with your legal staff about this section. Everyone agrees that 501(c)(3) includes educational, religious or charitable entities that deserve to have the exemption. Does the other group of 501(c)s have some exempt federal income tax revenue that we could exclude or some other earned revenue that we would want to tax under the revenue calculation? When you consider what to include and what not to include, you get into entities like fraternal organizations or associations of industries such as the Realtors Association. You would pull many other entities into the \$400 minimum. This bill exempts entities, and we have noted certain revenue we do not want to use

in the calculation. Even if we pull entities out of the exemption and say you do not have to consider certain revenues, that puts everybody in the \$400 a year category. The 501(c) language is the law that pulls a whole host of entities that are not technically businesses into the revenue calculation.

Assemblywoman Bustamante Adams:

We are missing businesses masking under that level that abuse Nevada's generosity. We may not be able to fix it this time because not everything is perfect. Some people abuse the system and take advantage of Nevada. Can you answer my question about the diverse market?

Ms. Contine:

We give presentations and provide information to taxpayers. We have many people, especially in southern Nevada, who speak different languages and work at customer service counters. They help provide information to taxpayers for the taxes we administer. If we need to send out specific information in various languages, we can accommodate that. I do not see a problem providing the education and information to a variety of businesses.

Assemblywoman Benitez-Thompson:

I have three questions. You can provide a written response to Committee members tomorrow. I will start by clarifying section 33 on transportation. Where section 33, line 21 says taxes, it should be taxis. For the record, it is taxis.

The first question for a written response is section 8 on the pass-through. Could you tell me who we now collect money from in that category? Under this new structure, from whom would we no longer collect money? We are taking out a complete chapter. I need that spelled out in writing. The next one is the timeline and the plan for the transfer. I believe you can pull it off. It will take a small miracle, but we can do miracles in Nevada. From July 1 to November 1, I would like the timeline for staffing and the anticipated number of staff the Department of Taxation will need for this. Also include the technology transfers and how we move things from the Secretary of State's Office over to the Department of Taxation so you will be ready to assess and collect.

Within the health care book of business, it does not seem like anyone pays the cost of care. It is the Medicare rate and Medicaid rate or a negotiated rate if we

are talking about contracts with private insurance companies. Help me understand what percentage of health care industries pay on the actual cost of care. I worry about the projections on those numbers.

Mr. Aguero:

You want a written response on the first three questions. I do not want to leave you with the impression that the health care industry as a whole is not generating revenue.

Assemblywoman Benitez-Thompson:

I do not disagree with that. What I have heard from my three terms, part of that on health care, is that no one pays the actual cost of care. The Medicaid rate is negotiated. My bill shows the actual cost and the discounted amount to be paid. Most people are covered by insurance.

Mr. Aguero:

I can respond to that quickly. It will be on the business's revenue. There are write-off provisions. Someone gets a bill for \$10,000, and the insurance company only pays \$1,000. I am making up those numbers. The revenue is the \$1,000 earned, not the \$10,000 billed.

Assemblywoman Benitez-Thompson:

I question the projected revenues. The amount may be narrow.

Mr. Aguero:

I do not know how to give you the response you want. We will look at the total revenue number for that industry. You are asking what share of that will be removed from the total. We modeled it after a state that has removed 100 percent of Medicare and Medicaid. It is removing 50 percent from all the hospitals. We apply that as a benchmark to our own State. From there, we apply a tax rate based on a margin-adjusted tax rate. It reflects everything you talk about. I understand the question, I cannot give you any more.

Assemblywoman Benitez-Thompson:

I want to understand the actual percentage once we allow for all the deductions and what will be considered revenue.

Assemblyman Hickey:

It was discussed that the MBT is an inferior approach to tax collection. Did you give any consideration to eliminating the MBT and calculate numbers with this new fee structure to replace it? If you did not consider that, why not?

Mr. Aguero:

We ran almost everything. The idea that we would eliminate the MBT altogether probably felt like a bigger step. We are dealing with imperfect revenues. We are moving in a direction to add a new element to our business taxation that we believe is superior for all the reasons I have already discussed and you mentioned.

Steve Hill (Executive Director, Office of Economic Development, Office of the Governor):

In 2011, we changed economic development in Nevada. With your support, we have had success over the past 3 to 4 years. This bill provides a significant opportunity for Nevada to change and diversify its economy. It provides an opportunity for our citizens, our children and students to participate in the twenty-first century industries coming to Nevada. We need an education system that works for students and helps them meet the challenge.

The companies coming to Nevada and looking to come to Nevada in the future need a STEM-ready workforce to meet their needs now and in the future. An investment in education is an investment in economic development. Those two functions need to work hand in hand. If we educate our children and do not have the jobs for them here, they will leave. We want them to stay. We want the best and brightest of Nevada to be in our State. They need jobs that appeal to them and challenge them. Those companies also need the graduates to be able to grow. If you take a step on the economic development side, you need to take a step on the education and workforce development side. You cannot take two or three steps on one side and not catch up with the other side.

I will address the two core questions with the Governor's proposal in S.B. 252. The first is the biggest obstacle to continue economic development in Nevada. I have answered that question here several times, and I have answered it in public several times. That obstacle is education and workforce. If you asked me to identify the second-closest obstacle, I could not tell you. If we could solve the education and workforce problems in Nevada now, we would take care of

the majority of the issues we have with moving the economy forward. I am confident we will do that. That is the single obstacle we have for economic development.

The other question that relates to this bill is how this proposal will affect economic development in Nevada. It will not. It will be helpful if we invest this money in education; we will move economic development forward as well. It is important to point out the three categories of transactions you can have in an economy. One imports a product from outside of Nevada into Nevada. The second is a sale from a Nevada company to a Nevada customer. The third is a sale from a Nevada company to a customer in another state. You have imports, in-state transactions and exports.

The proposal in S.B. 252 attaches a Business License Fee to a nexus in Nevada where the transaction sale process takes place in Nevada, a product or service from out of state comes into Nevada or a transaction takes place in Nevada itself. It does not tax the transaction from in Nevada to another state. That levels the playing field for all businesses. The export transaction from Nevada will very likely be taxed by the destination state of that sale. If you tax it in Nevada and in the other state, we disadvantage Nevada businesses.

We do not have a business tax that captures the transaction from an out-of-state company into Nevada. We are taxing Nevada businesses when they sell in the State. When businesses compete with a company from out of state that sells into Nevada, our system taxes the labor in Nevada but not the labor outside of Nevada. This would help balance that playing field. In Texas, approximately 30 percent of that state's tax is captured from out-of-state companies. If we did not structure a tax system that allowed that to happen, we would continue raising the same amount of revenue—and you would need to increase the tax burden on Nevada companies. This way makes it fair for all businesses—out-of-state businesses and Nevada-based businesses.

Economic development is about Nevada companies exporting their products and services out of the state. That brings money back into Nevada. That transaction causes the economy in Nevada to grow, and everyone in Nevada benefits. We are not taxing that transaction in this proposal. That is why I have said this proposal will not have a negative impact on the pure economic development effort and the improvement of the economy in Nevada. It will have a positive

impact because our education system will improve and help the workforce and the families of companies who are here.

There is great alignment in S.B. 252 with the economic development effort. We have abatements for other taxes that would impact economic development. There would be no abatements for this tax. This tax structure would allow us to not need an abatement in order to be more competitive. Any structure like that is well-aligned with economic development, and we would encourage your positive consideration of S.B. 252.

Senator Ford:

You said we do not need to abate this tax. Do any abatement agreements have provisions that say the abatement would apply to a nonexistent tax upon enactment? Is there anything out there like that?

Mr. Hill:

No, there is not.

Senator Ford:

None that exist? Do you know if it is legal to do that?

Mr. Hill:

I do not know. I would never consider doing something like that, and we have not done it.

Assemblyman Hambrick:

You spoke about education. Are the people who want to come to Nevada and set up businesses and give us economic development K-12 or does it start at the collegiate level and work down? Are they looking at the Ph.D. programs we have, or are they looking for their own kids for K-12?

Mr. Hill:

The answer encompasses the full spectrum. Different businesses need different levels of workforce. They need the research and development capability. We want to have an innovation-based economy. Those who achieve their master's degrees or doctoral degrees are important. A broader category includes high school graduates, community college graduates, college graduates and certificate-holding students who are becoming more appreciated and rewarded

for their work. Those companies also care about the families of their employees. This has a dual consideration. One is for the workforce, but employers want their children and students to have those opportunities as well.

Rob Hooper (Executive Director, Northern Nevada Development Authority):

I am here as a member of your Nevada economic development team regarding S.B. 252. We had a lot of conversation over the past week on this bill. My board met on this bill this morning, and I have been authorized to announce our formal position: the Northern Nevada Development Authority (NNDAA) fully supports S.B. 252 and looks forward to working with you. Education has direct ties to workforce development. This is key to the well-being of Nevada families and the future of our State.

At NNDAA, we have brought in over 4,300 jobs and \$1.35 billion in economic impact to Nevada over the past 5 years. Workforce was one of the biggest factors for both our wins and losses. Without a systematic State approach to better fund our education system, we will continue to see a decline in our skilled workforce. This problem already challenges our employers. Without making education a top priority, we could see average wages and median family incomes fall. This is the opposite of our economic development goal. Some have worried about what potential this bill will have on companies considering a move to Nevada. Northern Nevada Development Authority's primary focus is on jobs. Senate Bill 252 is designed to have no impact on these companies. When we bring a company to the State, we spend much time on spreadsheet analysis with them. We look at their total cost of doing business in Nevada. This will be a blip on a radar screen to them. The benefit comes when they see the State is committed to education. That is a big deal. We have lost some pretty good companies. When I came into this position, the first company I did a site visit for told me our education situation is why it did not locate to Nevada. We could not prove we had the necessary skilled workforce here. We have struggled with this. Having support for our K-12 education and delivering ready students into the workforce and into our higher education system is a big goal for us.

As for requiring companies that wish to sell into our State to pay the same fee as our in-state companies, there will be no loss of competitive position. The State will collect more revenue from companies outside of Nevada. This is a good thing. Prospective companies looking at the region will not see an impact from this bill. It falls on economic development to communicate the virtues of

this bill internally to our business community and externally to companies outside the State. It is important we let them know how this works. I have had many conversations with many companies about this bill. After you talk for 10 or 15 minutes, they get it. They flip from being I do not like this to we need this. It is the best option on the table.

Northern Nevada will experience the third-major growth boom in Nevada's history. It is being driven by modern manufacturing and technology. Both of these industries depend upon skilled workers who have a STEM education. This is essential. If you look at the plane going down the runway, the critical tire on the plane is the available workforce. If we cannot prove we have it, the tire blows and the takeoff aborts. This is a big issue.

When I first heard about this bill, I almost hit my head against the wall. I thought, is this really what we want to do? As I read the bill and had discussions with Director Hill and our business community, I realized that this program can work. One of our board member's company would go from paying a small amount to a reasonably higher amount. He is with a multistate company, and he talked it over with his CFO. They realized something needs to be done and are willing to pay for it. I am finding this across the board.

Mike Kazmierski (President/CEO, Economic Development Authority of Western Nevada):

At this point, our board has not taken a formal position on this bill. In the recent past, we have taken formal positions in support of additional funding for education. Education is so important to our ability to attract quality employers. We are at a point in northern Nevada where we have more jobs available than we have qualified workforce. We are projecting over 50,000 jobs in the next 5 years. In our best models, our workforce will not be able to meet those needs. Many of those jobs are incredibly sophisticated. They include cybersecurity, technology and advanced manufacturing. We are getting more and more interest in our region. We have to be able to say we are investing in education if we expect these companies to invest in this State.

From an economic developer perspective, the primary employer and the jobs that are exported have a minimal effect by this legislation. What businesses make and export is not covered in this tax. When we talk to companies about coming to Nevada, this will not affect their decision because most of what they

do will be exported and therefore will not have a concern. This is incredibly important to address the needs of our future workforce.

Glenn Christenson (Chairman Emeritus, Las Vegas Global Economic Alliance):

The board of the Las Vegas Global Economic Alliance (LVGEA) through its Las Vegas Education Council, working with other business and civic groups has been actively engaged in approving P-20—a preschool through higher education system—in our State. The focus for the last year and a half has been on enhancing K-12 education. For as long as I can remember, the conversation between business and education communities around K-12 has gone like this: the education community says you need to invest more in education. The response from the business community has been: why would we invest in a broken system? Missing as a result of this lack of communication is a structure to solve the problem of poor performing schools, recognizing we have limited resources to address the problem.

Our Education Council is made up of leaders from the business and education communities. They agreed that handing a blank check to our K-12 system would not work. We looked at the research and determined that targeted spending on specific programs will generate the highest return on invested dollars for improving education. After reviewing the research, the Education Council determined that spending with related accountability and metrics for defining success for programs such as teacher development and filling the related teacher pipeline, Read by Grade 3, universal full-day kindergarten, and targeted spending for those populations that cost more to educate such as ELL, Free or Reduced-Price Lunch and special education students would best meet our return on investment criteria.

Last fall, we vetted these concepts with over 100 businesses and civic leaders in our community and received overwhelming support. The Governor's proposal for education reform includes all of the items, and that is why the LVGEA board of directors endorsed the Governor's education agenda. The question is not do we need these reforms; the question is how do we pay for them? There is no free lunch. Our board believes that you cannot be for education reform without recognizing an associated cost with supporting these initiatives.

It is important to carefully consider research when making key decisions. After considering Dr. Susanne Trimbath's research along with the University of

Nevada, Las Vegas, Department of Economics report, our board endorsed the Business License Fee concept. Why is the LVGEA so invested in doing something about education in Nevada? When the LVGEA evolved from the old Nevada Development Authority, our board determined that economic development is much more than simply trying to get companies to move here. Our board believes that with strong economic development effort, we can better address issues facing our community such as education, health care, infrastructure, unemployment and social services.

Our economic development effort is being negatively impacted by our education system. Our research shows that 35 percent of the companies that express an interest in moving to southern Nevada do not come because of our education system and lack of a qualified workforce, which is an education issue. From the perspective of the LVGEA, we are at an important inflection point in our State's history. Finally, there is a structure and a plan about what to do to begin to enhance our education system, including necessary accountability and metrics for defining success. The Governor's plan includes many ideas we have heard historically from Democrats. It is more robust than the plan proposed by our Education Council and we applaud the broader vision.

The research around the Business License Fee indicates it would have the least impact to the State's growing economic development effort. We recognize there will be continued debate around the proposed education initiatives as well as the best way to pay for them. The LVGEA board wants to be constructive in those discussions and looks forward to working with the Legislature and the Governor to bring this to a successful conclusion. I want to emphasize the significant effort around improving K-12 education in our community. I have spoken previously about our LVGEA work, but thousands of companies and civic groups are working on the education system challenges in southern Nevada, and many of them are here today. We are working together better than ever.

There is much more to solving our K-12 education system challenge than spending money. There are two parts to the education delivery system. The first is what goes on in the classroom; the second, what it takes to manage a large organization like the Clark County School District, the second-largest organization in the State after MGM Resorts. We work with many groups to address problems in K-12. Last year, Clark County School District

Superintendent Pat Skorkowsky formed a Partnership Advisory Council comprised of business and civic leaders to provide the Council information on how to best address operational issues at the School District. The group has issued three reports on spending, program evaluation and operational return on investment. Mr. Skorkowsky has presented these reports to all the members of the Legislature, and I invite you to read them to get an understanding of how business and education communities can work together to achieve mutually agreed-upon goals.

Social issues affect K-12 education that money alone will not solve. It will take all of us working together to solve the big problem in K-12 education. We have a business community that wants to be constructive. The number and status of the individuals here today lends credence to that comment. We look to the Legislature and the Governor to help provide the structure that will best address these problems. I remind you that in 2011, the Legislature and the Governor passed A.B. No. 449 of the 76th Session, which provided much-needed structure around economic development. We stand ready today to be constructive in doing the same thing around education.

Tom Skancke (President/CEO, Las Vegas Global Economic Alliance):

You heard from my colleagues here in northern Nevada that education is the No. 1 issue in economic development. It is the same for us in southern Nevada. It is the No. 1 issue our organization deals with every day. In the two and a half years I have been in my position, I rarely have a conversation about taxes. I have many meetings about why Nevada is fifty-first in education. We were here last month to testify in front of this Committee. I was with Jonas Peterson, who is the president of our organization. He gave a slide presentation to the Committee that showed the funnel.

Last year, we had 251 opportunities to attract businesses to southern Nevada. Five percent of those businesses did not choose Las Vegas because of the brand. Most people say people do not come to Las Vegas because it is Las Vegas. That is not true. Eighty percent of the time, Las Vegas is one of the top ten destinations to relocate a company's business. I attended a dinner with four site selectors, and all four of them gave us the same statistic.

Twenty percent of the businesses did not come to southern Nevada last year because we did not have the warehousing space or the office space. Of those

251 companies, or 85 businesses, 35 percent of the businesses did not come to southern Nevada last year because of workforce availability and education.

Twenty percent did not come to our community because our incentive program is not competitive with the rest of the Country. While it is decent, it is not as competitive as Arizona, Utah, Texas and other states that we compete with on a regular basis. Another 20 percent did not move to Las Vegas for miscellaneous issues, which might have been health care, often the main issue with the miscellaneous group. Another reason is that they could not convince their spouses to move to Las Vegas as the destination.

We deal with education every day. You will hear from Dr. Susanne Trimbath with whom I have done extensive work over the years. Dr. Trimbath is a former Milken Institute economist, has done extensive work with the U.S. Chamber of Commerce and worked for the Federal Reserve Bank of San Francisco. You will hear in her testimony this afternoon that the BLF proposal will have the least impact on our ability to do our job.

Because education is our No. 1 issue, it is difficult for us to attract businesses to our community. I have been to the Far East several times while in this position. I was able to get a major manufacturing company from Korea to visit us in Las Vegas. Finally, after several visits to Korea, we get this individual to come to our office. We gave a 2-hour presentation to him through a translator. At the end of the presentation, this individual pulled out a *Las Vegas Review-Journal* newspaper and said, "Nevada is fifty-first in education. Why should I move my company to southern Nevada?" I could not answer him. I tried, but I could not argue with the fact that we are fifty-first in education. That company could have produced between 5,000 and 7,000 jobs. That was our Tesla, and I did not have an answer. This was a huge missed opportunity. That is the battle we have to overcome in our organization every day.

I commend our board for taking action and taking a leadership position in this conversation. As the Governor said this morning, this is our time to do what is right. From an economic development point of view, our issue is education.

Missy Young (Executive Vice President, Colocation at Switch):

I am testifying on behalf of Switch CEO and founder Rob Roy and on behalf of the Switch community. Switch is a homegrown Nevada company. We were founded here and we have thrived here, and each time we look to expand, we look to expand here. We are not only interested in the business environment Nevada offers, we are also passionate about the quality of life for our clients and employees. On both of those fronts, we have a stated priority to enhance and improve interactive, innovative technology with education, especially working with the Nevada education system.

Today I testify on behalf of S.B. 252, which we believe is a step forward for our State. This bill contains a sweeping and needed change to our State revenue system. We agree that modifying the BLF is a sound approach for the following reasons: It is one of the broadest bases of any tax or fee the State imposes; it is relatively easy to administer and among the easiest with which to comply for businesses. It captures both domestic and foreign business filers, and it will grow in a stable fashion as Nevada's new economy expands and evolves.

While no tax or fee is perfect in its implementation to society as a whole, we believe the approach in S.B. 252 is equitable, transparent and right for the future funding of education. We also know that the Legislators in this Committee room, both Democrat and Republican, have responsibly studied alternative plans and will continue to look for ways to evolve on that which the Governor has proposed. Most important to us is that the revenue policy this Legislature agrees to and which earns the Governor's signature proves to be a broad-based and stable source of future revenue for K-12 education programs.

Switch is proud of our role to help make Nevada the most connected state in the Country. In support of that effort, we have been working to upgrade the Internet infrastructure at every public school in Nevada. We are excited to have brought so many of our Fortune 500 clients to locate within our Nevada data centers. Companies such as eBay, Intel, Amazon, Shutterfly and many others now have a footprint in our great State because of our partnerships and our role as a leader in the new Nevada economy.

Finding the correct plan to enable and improve Nevada's education system has not been easy. In the end, it is our hope that when the next generation looks back on the work done this Session, it will be viewed as the catalyst for

Nevada's coming of age as a beacon of economic diversity and opportunity led by an education system of which any state in the Union would be proud.

Jack McNeill (Senior Vice President, Scientific Games):

We are a new corporate citizen in Nevada. We have 1,500 employees in the State. Scientific Games is a leading developer of technology-based products, services and associated content for worldwide gaming, lottery and interactive markets. We have more than 700 gaming licenses and 9,000 employees, and we do business in over 50 countries. The company's portfolio includes gaming machines, gaming content and systems, table games, products and utilities, instant and draw-based lottery games, server-based lottery and gaming systems, sports betting technology, loyalty and rewards programs, and interactive content and services.

Two months ago, we were inspired by Governor Sandoval and the legislative leaders to move our global headquarters to Las Vegas. Our presence is a catalyst to make Nevada the worldwide gaming development and manufacturing center of excellence. The main concern our employees had in relocating was the educational resources available to them and their families and an educated workforce we can recruit from. We have analyzed S.B. 252, and we commend the leadership for looking to modernize Nevada's education system. While a number of funding mechanisms have been reviewed, we feel that the BLF is the appropriate vehicle to fund these efforts. We look forward to hiring homegrown, qualified professionals as we expand our global industry leadership.

Assemblywoman Bustamante Adams:

What NAICS code do you fall into? Have you done the calculation on what the increase will be in your Business License Fee?

Ms. Young:

I am not sure what the code is. If the tax were implemented today, we would pay \$1 million. As we continue our expansion in northern and southern Nevada, we would fall into the highest bracket of \$3.2 million.

Mr. McNeill:

It would be \$2.4 million for Scientific Games.

Assemblywoman Bustamante Adams:

Can you tell me the percentage increase from what you pay now to what you would pay?

Mr. McNeill:

We are new to the State. I have the numbers that were given to me. The difference from the Business License Fee increase was minimal in comparison. As Mr. Hill and others have said, we export most of our goods from Nevada.

Assemblywoman Bustamante Adams:

You just referenced the Business License Fee. It does not have anything to do with other taxes.

Mr. McNeill:

Right.

Elaine Wynn (President, State Board of Education):

I reiterate that this is a spectacular day. Even though we are sitting in this somewhat oppositional, imposing atmosphere, I am talking to friends and neighbors. I hope you will accept my testimony ([Exhibit C](#)) in that vein.

Phil Satre (Chairman of the Board, International Game Technology):

I ask you to support S.B. 252. My comments are as someone who has been involved on the taxpayer side. I have been involved in that capacity in a variety of different business roles throughout this State for 35 years and as a resident for the past 40 years. For most of my business career during those 35 years, the companies I have associated with have been among the largest taxpayers in this State, primarily because they were corporate gaming taxpayers but other types as well. I serve as the nonexecutive Chairman of the Board of International Game Technology. International Game Technology (IGT) is a Nevada manufacturer with over 2,500 employees at both ends of the State. We generate over \$2 billion in revenue.

For the last 9 years, I served as an independent director of Nordstrom, Inc., the Seattle-based fashion retailer. Nordstrom has stores in southern Nevada, and we are opening our first store next week in Reno, a Nordstrom Rack. We pay taxes in Nevada, and we will pay more taxes as a consequence of the BLF. I also served as the chair of NV Energy for about 9 years and spent 25 years at

Caesars Entertainment—and for most of that time I was the Chairman, President or CEO. I have often been before this Legislature arguing about tax increases that I thought were not balanced, not equitable and not fair. I am keenly aware of what I view as broad-based taxes that are fair and equitable. I have also been involved in the formation of the Kenny C. Guinn Center for Policy Priorities. I have served as its Chair since its formation. The Kenny C. Guinn Center has prepared a policy brief on this subject.

From my perspective as someone who has been involved as a taxpayer, I believe that Governor Sandoval's proposal is a thoughtful, seriously considered and bold plan for Nevada's future. Both now and in the future, Nevada businesses need an education system that gives them a well-educated workforce. Businesses need to know they can expand and meet their workforce demands or move to Nevada and have the kind of workforce they need to succeed. If we want economic growth and diversification for the future, we have to invest in better K-12 education. In my business career, I often encountered resistance to change in the organizations I was involved in. I would often use the phrase "everybody wants something to happen; but nobody wants anything to change." We all want to see better education in this State, but no one wants to pay for it. The companies in this State have to pay for improved education. This is the best plan I have seen to make something happen and make something change for those companies now and those companies in the future.

Assemblywoman Bustamante Adams:

My question is the same. What NAICS code does IGT fall in? Have you calculated the percentage increase in the BLF that IGT will have to pay?

Mr. Satre:

I have not done the calculation. Nordstrom falls into the category of retailer. Based on what I have seen and the revenues we generate in this State, we will see our taxes increase between three and five times. For IGT, we have a few categories because we are a manufacturer of slot machines. We sell a number of those slot machines inside Nevada. As pointed out by Mr. Hill, we sell many outside the State to which we will not have a Business License Fee attached. We also participate with many of our Nevada gaming customers operating slot machines. We have revenue-sharing with them, so there is a gaming gross

revenue attachment. We will see somewhere around \$100,000 to \$1 million. It depends what you all do on this.

It is clear that those two companies will have an increased tax weight attached by the changes made here. You cannot generate \$480 million of increased taxes without touching almost every business in this State. It is impossible. One of my biggest concerns for making this change and one of the reasons why I support it so much is this State has grown with an increase in gaming gross revenue taxes. That is coming to a slow halt. We are not seeing increases in gaming gross revenues; we are seeing increases in nongaming revenues. We see capital spending on nongaming assets. The customer has changed. We see the needs of our population grow while the primary tax source in this State has stopped growing. It is imperative that this Legislature deals with that change.

Ruben Murillo, Jr. (President, Nevada State Education Association):

I am a special education teacher representing 24,000 teachers and support professionals. We support S.B. 252. As an organization of educators, we are passionate about the students we teach and are dedicated to fighting for resources necessary for the success of our students. Many times, we have been the lone voice in fighting for stable funding necessary to educate our students. We applaud the Governor's commitment to establish stable funding for educational programs that directly benefit our students. We are hopeful a consensus can be reached to dedicate stable funding to our schools.

Jovan Agee (Nevada State Education Association):

I would like to speak of the historical significance of this policy. The 2009 appropriation report shows the Legislature approved \$6.689 billion in total Distributive School Account (DSA) operating expenditures for the 2009 biennium. For this biennium, the Governor proposes to spend \$6.769 billion. That is an \$80 million increase over the 2009 biennium. The 26th Special Session reduced the total operating budget from \$6.689 billion to \$6.574 billion in February 2010 since the projected revenues were not materializing. Because the school districts never received the \$6.689 billion, a comparison of the Governor's proposed budget with the 26th Special Session may be more appropriate.

The difference between the 2007-2009 biennium as revised by the 26th Special Session in 2010 and the 2015-2017 biennium budget proposed by the Governor

is \$194 million. While the proposed budget is a step in the right direction, the State is still not funding programs like education to prerecession levels. The total proposed biennial revenues including the Business License Fee is \$569.4 million, and the new elementary and secondary funding is \$354.5 million or about 67.5 percent of the total new fiscal year (FY) 2017 funding. This funding will go a long way to help Nevada school districts tackle unprecedented issues like teaching shortages and available classrooms.

I will address the economic impact of the Business License Fee. We had our chief economist of the Nevada State Education Association in Washington, D.C., develop a summary to outline the economic impact of the education-related components of Governor Sandoval's budget proposal. He developed a summary using an economic modeling tool known as the REMI model, which is used by the majority of state legislative and executive branch budget offices, including those in the State of Nevada.

Using the REMI model, the economist concluded that net Nevada employment under the proposal is shown to increase by 3,191 jobs in FY 2016, which is the first year of the proposal, rising to 3,329 jobs in FY 2017 when the measure is fully in effect. Total output of Nevada businesses would be higher by \$122 million in FY 2016 and \$99 million in FY 2017. Total personal income for Nevada residents would be higher by \$86 million in FY 2016 and by \$99 million in FY 2017.

Proposed education funding measures will produce a net increase in jobs, output and personal income in Nevada. The effects of the proposed education funding measures more than offset the effects of the taxes by a considerable margin. The Business License Fees are deductible by the affected business's federal income taxes which lessen the overall burden to Nevada businesses.

Education spending in the proposal has a relatively high local purchase intensity and a high labor intensity. This means that a relatively large share of that spending goes to in-state wages and salaries and a relatively small share to out-of-state suppliers. Education career occupations account for 60 percent of the jobs arising from the education-funding component of the Governor's proposal. This means that nearly 30 percent of the jobs created as a result of education spending are not in teaching or other education career occupations. Of Nevada's 92 major occupational categories, 33 occupations are expected to

have increases of 10 or more jobs as a result of the new education spending. Only three occupations are expected to have job losses of ten or more.

We have heard by many testifiers that Nevada is and has consistently been at the bottom of the educational system in our Country. Our members are continually being asked to do more with less. We are asking the Legislature to support S.B. 252 to put the necessary investment in education to ensure improvement of our educational system.

John Vellardita (Executive Director, Clark County Education Association):

I want to state the reasons why this is a good policy. Before I do that, we have heard a lot about investing in education. The ongoing investment in public education is and has been by frontline educators. There are close to 30,000 teachers in Nevada. All of them have degrees. It is the most educated workforce in any industry in the State. These are smart people. Many of them have master's degrees and a number of them have doctorates.

There is a billion-dollar investment on the part of those teachers to acquire that education. Every year, their out-of-pocket expenses in a classroom to meet the needs of a challenging student are approximately \$26 million. They are not reimbursed for these expenses. There is the hidden investment nobody talks about. Each one of you who visits a classroom and spends a few minutes with an educator hears about the amount of time teachers put into classrooms.

Our contract hours in Clark County are 7 hours and 11 minutes. Our educators put far more time into serving the needs and providing a decent education. With all the challenges they face through the students they greet every day and end their day with, they put in 40 percent more than their contract hours in a given day. That amounts to 525 more hours every year, which is about 74 days that teachers put on the front line teaching kids, and they are not compensated for this time.

When we talk about investment, educators have been investing ongoing and will continue to do that. Why are we here today? As an organization, we know we need to change the way we do business. We cannot be an organization that presents our interests without looking at the interests of the overall community, and in this case, the State. We have a role to help lead and make our education

system the best in the Nation. It starts with us having a degree of accountability with ourselves, the education system and our community.

We heard the Governor say in his State of the State Address, I am going to invest in education. I do not have much money, but I am going to put it on programs that I know are needed; and there will be some accountability and there will be some measurement to get a return on that investment. I am going to ask businesses to do that. Not another standing Republican governor in this Country has asked corporations and businesses to tax themselves to pay for education. That is a profound investment, and that is leadership.

We know there are disagreements on this issue. When a leader emerges like that—at a time when circumstances in these classrooms have been begging for a solution—we see an opportunity, and now we have to prepare for it.

The second thing that has enlightened us and given us hope stems from the Question No. 3 election when we heard from two camps of business. We heard the “nay” crowd. They are here, and they are never going away. They say they are here to make a buck, and I am not going to invest in it. They bankrolled a campaign. We also heard from businesses that said this is a bad policy we cannot support. We know we have to invest in education; will you work with us? We said, what does working with you mean?

It means no blank checks. The money has to be spent smartly toward needed programs for today’s classroom. There has to be accountability. We have to measure the return on that investment. We need educators to help us move that message.

When businesses shared that view, we said, we can work with you. We did not stop there. We made it clear to everybody. Anybody who wants to make an investment in education in this State, we do not care what political flag you wave, we are going to work with you. That is leadership.

Those are the reasons we support S.B. 252. I can give you four other reasons we think this is smart.

First, it is good policy. It is an investment in the economy. The engine of the economy is a smart workforce. If we do not take steps to improve our

educational system, the two industries that are the engines of the economy in this State will sunset. We need to diversify and learn the lessons of the 2011 Great Recession and invest in education. There is not an adverse economic effect. Our study shows a positive effect. There is not a significant increase to the State. You will not have to create another department. It is relatively easy to implement. This asks business leaders to be good corporate citizens. You invest in Nevada and get a return, now invest in the community and the children of Nevada by helping us fund education.

The second reason we are behind this is we think there is an opportunity here. We can see the leadership sitting in this room now. To pass any kind of funding requires two-thirds of the vote. This is not one party rules. This is about people who are of the persuasion that we have to make an investment in education. We are going to cross party lines, join hands and find a compromise. It means talking, engaging and finding the compromise that is in alignment with educators. Educators love to collaborate to find solutions. There is an opportunity for this measure to pass this Session.

The third reason we support this bill is because our classes are in such dire need of money that we cannot entertain a policy that says let us find a fix 2 years from now. You did not do anything in 2013, and two classes suffered the results. We have an opportunity now. This BLF allows for immediate collections so that investment can take place.

The fourth reason is the categorical model. We have a problem with the Nevada formula for the DSA. It is outdated and does not address today's classroom nor the challenging students the teachers face. The DSA per pupil funding does not take into consideration some of the things in the program the Governor has proposed. This is modeled after the 2013 Session, the Zoom model that Assemblywoman Olivia Diaz helped lead. That is smart. This program money affects students who are poor and students of color who nobody talks about. We do not have a problem with that categorical model. It addresses something that this Session does not address now. That is to reform the Nevada Plan for school finance.

We believe in accountability. Any money invested in any kind of program has to be held accountable to that specific program and kids have to be learning. We will be the first to join in partnership around the accountability issue.

We want to make sure that money is spent in the right way and for the needed programs outlined by the Governor.

We know how to accomplish this, and we need to have bipartisan support. We ask all of you to do that. We are going to be there on this issue. Does that mean we do not have other issues? We do have other issues. You all are bringing those issues to us. We have brought some issues to you regarding professional development and peer assistance and review. That is the new direction of our organization, and we are investing in the practice to make sure we have the best-qualified teachers in the classroom.

We also have to address other issues, such as collective bargaining, the Public Employees' Retirement System and the teacher shortage that exists in Clark County, which is at incredible proportions. Those 600 substitute teachers every day in Clark County need to be addressed. Even though we have these other issues, we are not holding up the discussion to get this passed. This is so critical to move, we are asking every Legislator to consider and support this bill.

We are at a crossroads. When this Session concludes, if the Legislature has not invested in education, it harms the children. Public education in the U.S. is supposed to be the great equalizer, the opportunity for any kid to get a decent education so the doors of opportunity open up to him or her. We cannot shortchange them with another session that does not take action.

Jesse Haw (President, Nevada Home Builders Association, Inc.):

The Nevada Home Builders Association supports S.B. 252. I have submitted my prepared testimony ([Exhibit D](#)).

Josh Griffin (Nevada Subcontractors Association):

No economic sector was harder hit by the Great Recession than Nevada's construction industry. As our national and State economy recovered, we have begun as an industry to reinvest in our communities, our homes and our businesses. Those of us in the Nevada Subcontractors Association who survived this downturn are now hiring new workers, investing in new equipment and bidding on more and more projects. The Association will continue to partner with the State of Nevada. We support Governor Sandoval's probusiness agenda, and we support Governor Sandoval's reforms to our education system and the

State's new investments in education, including STEM education. More students will enjoy the very best of Nevada's K-12 system.

With these important investments come additional costs. While no business looks forward to higher taxes, we support the principles to fund these critical investments. A small, easy-to-administer tax that is spread out as broadly and fairly as possible has been and continues to be the best policy, and we support the Governor's solution. If Nevadans are asked to do more, it makes sense for them to expect more. This budget and these policies do that.

Assemblywoman Bustamante Adams:

The Department of Taxation has a sample of subcontractors. They are included in this BLF. Can you give me an example of how subcontractors would be included and what kind of increase you face?

Mr. Griffin:

I am not sure I understand the question; there is a specific rate for construction.

Assemblywoman Bustamante Adam:

It is a pass-through that goes to the general contractor and then to the subcontractor.

Mr. Griffin:

I will answer as best as I can. I understand pass-through is the revenue that continues to move up the chain within that industry. Our calculations show that each subcontractor pays a BLF on the revenue for its portion of a project. The subcontractor will assume and pay a tax increase on the BLF. We asked each individual company to make an assessment, and we will attempt a comparison with the other ideas. We will continue to do that over the next 60 or 70 days. As the tax topics are discussed, we will analyze them. For some members, that increase was \$10,000 to \$15,000. We have a member that identified a \$90,000 increase based on the rate published in the bill.

Senator Ford:

Section 8 discusses pass-through revenue. Pass-through means subcontracting payments under contract or subcontract entered into by a business to provide services, labor or materials in connection with the actual or proposed design, construction, remodeling, remediation or repair of improvements on real property

or the location of the boundaries of real property. I think I understand what that means. However, there lies the confusion as to how this proposed tax would affect both contractors and subcontractors.

Ms. Contine:

It is like the example I gave earlier today. The contract for paving the road is for \$10 million. Of that \$10 million, the contractor pays \$8 million to subcontractors. For the contractor, the revenue for purposes of calculating a BLF is \$2 million. For subcontractors, it is whatever that amount of the \$8 million they have been paid. Given eight subcontractors are each paid \$1 million, they would each calculate their liability on the \$1 million.

Assemblywoman Benitez-Thompson:

Could you tell me where independent contractors fall into place for this?

Ms. Contine:

When a business gains revenue, holds revenue or has money like the \$10 million for the contract and pays independent contractors for the construction, the pass-through specifically references it as a sale—or a commission, which is for the real estate industry. The broker in that example would hold the money from the sale, but the other party would be entitled to the money. If the commission was \$5,000 and the broker paid the salesman \$2,000, the broker's revenue for purposes of the BLF would be \$3,000. The revenue given to the other entity would be used to calculate its BLF revenue.

Assemblywoman Benitez-Thompson:

The independent contractor, such as a person with a truck route, will be responsible for a portion, and the other portion will be picked up by whatever party is paying.

Ms. Contine:

That is so for certain examples as described in the pass-through section. I cannot imagine every situation. For construction contractors and entities that hold money for distribution based on agreements they have with other entities, another entity or company would have liability for the Business License Fee.

Assemblywoman Benitez-Thompson:

I want to make sure we have this on the record so it may help the public.

Bill Welch (Nevada Hospital Association):

The hospital community recognizes the importance of ensuring essential services, such as education, and other services as well. We understand these services need to be adequately funded if Nevada hopes to ensure its ability to sustain and grow a strong economy to meet the needs of all Nevadans. The hospital community also understands we need to be part of the solution. We have reviewed the various revenue proposals on the table and under discussion and consideration. We believe that S.B. 252 provides for a broad-based, balanced approach to generate the revenues necessary to meet the needs of Nevada. The members of the Nevada Hospital Association support S.B. 252 and look forward to working with you on the details.

Virginia Valentine (Nevada Resort Association):

I am joined by Casey Gawronski, Harrah's Reno; John Maddox, Caesars Entertainment; Karlos LaSane, Caesars Entertainment; Bill Noonan, Boyd Gaming; Kim Sinatra, Wynn Resorts; Ulrico Izaguirre, Wynn Resorts; Denice Miller, MGM; and Mike Sloan, Station Casinos. Together they represent the majority of our 66 resort hotel members.

In 1965, the Nevada Resort Association was founded to represent our State's gaming and resort industry. This year, we celebrate the fiftieth anniversary of the Association. We continue to advocate for the State's largest industry. Our Association monitors emerging issues, gathers information and consults with key decision makers on subjects affecting our members and partners statewide and their 268,000 employees.

Together our gaming and resort industry and the broader tourism industry pays \$10.7 billion in annual wages and salaries to Nevadans. That number rises to \$15.9 billion if you include the indirect and induced wages and salaries. In addition to our industry being the State's largest employer, our members are also Nevada's largest taxpayers, paying all the taxes levied on other businesses, as well as an additional \$1.5 billion in industry-specific taxes.

From our beginnings—a small emerging industry to one renowned around the world that sets the standard for global competition—our members are proud of the role we have played in the growth and health of Nevada. Our members are committed to being part of the right solutions for Nevada, as we have been for the past 50 years.

William Vassiliadis (Nevada Resort Association):

I am speaking on behalf of the Nevada Resort Association to support education funding, S.B. 252. We support the Governor's education plan. The Governor and his staff worked hard and diligently on this. They met with industries, the education community to include school superintendents and came up with something we think meets the criteria that has been discussed here and contested—some form of accountability, professional development and measurement. When the Governor was satisfied that those standards were reached, he took the bold and courageous step to find the funding.

A lot of people here support this bill. It is important to fund education. This is how every Legislative Session starts. A number of Legislators send out mail pieces to their districts saying we support education. The Governor and the lobbyists support education, and then the reality hits. The challenge is how we fund it. We all agree to support it, but how do we fund it?

As you look at funding, it is important to also understand what gaming does contribute to the State. We fund 47 percent of the General Fund. The industry pays \$1.5 billion in industry-specific taxes. Of the \$620 million in room tax collected in Clark County alone, 70 percent goes to school construction, education, transportation or local governments. A third of all the sales tax collected by the State is generated by the tourism industry and its employees. Of the MBT, 20 percent is paid by the gaming industry, and only 5 percent of Nevada businesses pay the MBT. We continue to be the highest property taxpayer in the State.

Six of the top ten employers are resort properties, the other four are government entities. The industry directly employs 268,000 people and pays over \$10 billion in wages and salaries. Additionally, we pay about \$1.1 billion in health care and benefits. The industry also leads to the employment of 152,000 other Nevadans. That is another \$5.2 billion in wages. Last year when the Resort Association opposed Question No. 3, we said then we felt we needed to oppose it because of how it was constructed and the rate was too high. At the same time, many of our CEOs publicly said that we would work with the Legislature, the education community and other businesses to fund education. Our "no" on Question No. 3 was not a no on funding education. I am here on behalf of the Resort Association to keep that commitment. We had a meeting with our CEOs prior to this Legislative Session. The two things they

talked about the most were funding education with a broad and stable tax rate and rollover school construction. I want to congratulate you all for passing the school construction budget so quickly so we can build our schools.

Education is important to the Resort Association. It affects us directly and is important to many of our employees. Our employees are not only Hispanic and English learners. We also have a challenge that every business faces. We need white-collar employees, accountants, managers and data processors. Last year, two Las Vegas Strip companies called within the same week to ask me where they could find a good digital manager or a good social channel manager. It is important to us that we improve K-12 dramatically because our kids need it and our employees deserve it. Many of our first-generation employees aspire for their kids to do better. The only way to do better is with a better K-12 system.

Over the last 50 years, the Association has consistently come before the Legislature to support a broad-based tax. In 2011, we supported a margins tax. In 2003, we supported gross receipts tax. We take this position despite the fact the gaming industry will pay 58 percent of all business taxes collected if this tax passes. The second-highest industry will pay about 5 percent. We take this position despite the fact that our industry has not reached prerecessionary business activity. In 2014, we had a loss of \$700 million. Our gross gaming revenue has been down 12 percent since 2007. Our average daily room rate has been down 10 percent since 2008. Convention attendance is down 21 percent since 2007.

All those numbers are starting to come back, but they are coming back slowly. Despite these numbers, we support this bill. We support the Governor's initiative despite the fact that for the last 25 years, we have repeatedly been assessed taxes and fees for school construction, room tax for education funding and \$25 million a year for transportation bonding. Every session you have come to us, and we support this issue. Despite all the industry-specific taxes, we believe it is important to pass this bill.

Every 2 years in Nevada we are at a crossroad. For 25 years, we have stopped at the crossroad many times. We have to cross the road if we are at a crossroad. Everybody supports improving education, but every year we do the same thing. I have not discussed this plan with the Governor. He and his staff have done a phenomenal job in crafting an innovative way to find revenue. This

is not 2003. We have been through a terrible recession. The fact that this State allowed itself to be dependent on one industry for so long showed catastrophic results during the Great Recession. It would be absurd to continue that kind of policy. We proudly support S.B. 252 and, more importantly, support the funding of public education.

Assemblywoman Bustamante Adams:

I want to clarify and understand that gaming revenue is already taxed in another area, so that part is exempt. The nongaming activities would be included in this bill. Is that the way you understand it?

Mr. Vassiliadis:

Yes, that is correct. It is important to note that we pay a gross tax on the part not being taxed. That is the shrinking part of the business. The BLF will capture the growing part of the business. Approximately 15 years ago, the State collected our nongaming revenue, and it exceeded the gaming revenue. It will continue in that direction. When you look at the fabulous properties constructed, that will continue to grow.

Assemblywoman Bustamante Adams:

In your statement, did the 58 percent include the gaming revenue?

Mr. Vassiliadis:

It includes all the business taxes collected by the State. If this passes, we will pay 58 percent.

Chair Roberson:

You said the gaming industry will be paying 58 percent of the BLF?

Mr. Vassiliadis:

Gaming will pay 58 percent of all the taxes the State collects.

Chair Roberson:

Does that incorporate the BLF into that 58 percent?

Mr. Vassiliadis:

The entire package.

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Chairman Armstrong:

Can you define business taxes? Does that include property tax and sales tax?

Mr. Vassiliadis:

It includes property tax, room tax, gaming tax, the MBT and all the taxes.

Chair Armstrong:

Can you give me a complete list of the taxes you are referencing?

Mr. Vassiliadis:

I will provide one for you. I do not have one now.

Tracey Woods (Anthem Blue Cross and Blue Shield of Nevada):

We employ 250 associates in Nevada and coordinate the health care of nearly 500,000 people, including members on Medicaid, members who purchase their health insurance through the Silver State Health Insurance Exchange and in the commercial market. We support S.B. 252. We appreciate the leadership of the Governor in presenting this plan. This bill contains a much-needed boost to our State revenue system.

We believe that modifying the BLF is a good approach for the following reasons: It has the broadest base of any tax or fee the State currently imposes; It is relatively easy to administer and among the easiest for businesses to comply; and it will grow in a stable manner as Nevada's new economy expands and evolves.

Barbara Smith Campbell (The Ferraro Group):

Many of you may know I chaired the Nevada Tax Commission for many years. I served for five consecutive terms and was first appointed by Governor Richard Bryan, who is now former U.S. Senator Richard Bryan. I was subsequently reappointed by Governor Bob Miller and Governor Kenny Guinn. I was a member for 20 years and chair for 10 of those 20 years. During my tenure as chair, I oversaw the implementation of the major tax package instituted in 2003. That regulatory process for developing the administrative code was painstaking and difficult.

I retired from the Nevada Tax Commission to start a consulting business of strategic tax planning for businesses located or planning to locate in Nevada.

I have been working in matters dealing with State taxation for nearly 30 years. I had the opportunity to review S.B. 252 and want to thank the Governor and his staff for introducing this bill so early in the legislative process. Historically, many tax bills are introduced late in the session; as a result, the outcomes may have many unintended consequences. This early introduction gives the Legislature and Nevada businesses time to digest the bill for comment, questions and debate.

I personally struggled with the statutory language in 2003 that was not comprehensive or entirely developed. It caused problems for us at the Commission as we developed regulations for the Department of Taxation and downstream. There are many weeks for discussion, and I know that S.B. 252 will be deliberated with thought and consideration. As with any draft legislation, I am sure the authors expect that it will result in amendments or revisions. As I read through S.B. 252, in its practical implementation, it appears to have a clear-cut intent to be broad-based, and its administration should be relatively straightforward and less complicated for Nevada taxpayers.

Sections 1 through 22 appear to be the backbone of the bill. The NAICS tables in sections 23 through 49 recognize the different business categories for purposes of determining the quarterly fee. The intent is to apply the fee fairly across all of the industry groups. The NAICS codes have been used for years by the State, and State businesses are familiar with those codes. The responsibilities for the administration of the BLF would fall within the Department of Taxation. The Department of Taxation Executive Director and her staff are fully qualified to oversee the enactment of this bill. I have confidence they can implement S.B. 252 as directed and as it is now written.

You also have an experienced and tenured number of members on the Nevada Tax Commission. Many of them were members when I was chair. If regulations are needed to assist in the administration of the BLF, they have the experience to move the regulatory process with clarity and timeliness.

Assemblywoman Bustamante Adams:

The health care providers Medicaid, Medicare and CHIP are not counted.

Ms. Woods:

Yes.

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Assemblywoman Bustamante Adams:

The uncompensated care is not counted either?

Ms. Woods:

Uncompensated care does not impact us. That is for the hospitals. We pay a premium tax on our premium revenue. We would also pay an increased Business License Fee.

Assemblywoman Bustamante Adams:

What would that look like for your industry?

Ms. Woods:

We have business lines in which we rent a network or pay claims, but we do not get premium. We would have a higher BLF. It is the right thing to do.

Assemblywoman Bustamante Adams:

In section 20 for this industry, that portion of the revenue would be reduced by 50 percent. Is that how you understand it?

Ms. Woods:

No, that is not how I understand it. For section 20, we receive premium, and we already pay a premium tax of 3.5 percent. That portion of our business is exempt. We do have revenue streams with different business lines that would be impacted by S.B. 252.

Brent Bell (President and Chairman, Whittlesea-Bell):

We provide taxicab, limousine, sedan, bus and airport transfer services in Nevada. Founded in 1941, our company now employs 2,000 people. We employ 90 percent in the south and 10 percent in the north. We support the Governor's tax plan. We are opposed to the MBT or any other form of payroll tax.

Employing over 2,000 people is rewarding and also challenging. Some of the challenges we deal with are the Affordable Care Act, unemployment taxes and new U.S. Equal Employment Opportunity Commission guidelines. Workers' compensation costs have hit employers hard and discouraged growth. Our industry is growing, and we are hiring people each day. These are full-time jobs with health insurance benefits, incentive bonus plans, vacation pay and

401(k) plans. These jobs benefit the State as a whole and help to grow our economy. The Governor's plan is broad-based, fair and sensible. It will cost our company approximately \$130,000 a year; however, we want to continue to invest in Nevada and support future educational initiatives as the Governor has laid out.

Jonathan Schwartz (Director, Yellow Checker Star Transportation):

Yellow Checker Star (YCS) is the proud employer of almost 2,000 employees who have well-paying jobs with excellent benefits in Las Vegas. Yellow Checker Star is a taxicab business and proud to be the innovator in Nevada with regard to its exclusive use of clean-burning alternative fuels for more than 25 years. Our investment in alternative fuels exceeds \$20 million and reduces emissions of carbon monoxide by more than 1,000 tons annually in Las Vegas.

My business is dependent upon a well-educated workforce to perform research and development on YCS's state-of-the-art alternative fuel systems. Our economic consultants have closely followed the debate on various tax plans over the last several years. Governor Sandoval's proposed BLF modernizes our tax code and is the most broad-based and fair proposal that my company has reviewed to date. Governor Sandoval's proposal is sensible, fair and reasonable. Governor Sandoval's plan will bring about the changes in education that Nevada needs. We support the proposed BLF.

Jim Eckstaedt (Frias Transportation):

Charlie and Phyllis Frias started Frias Transportation in the mid-1960s. They started with five taxicabs, and today Frias is one of the larger employers in the State. Charlie and Phyllis Frias have always been supportive of funding education and have been recognized for their contributions in support of education. Frias Elementary School located in the Southern Highlands was named in their honor. Mrs. Frias and the company continued to make significant annual contributions to Frias Elementary School, University of Nevada, Las Vegas Scholarship Fund and other educational-related foundations and charities. For the Frias companies to continue to grow, a well-educated workforce is critical. The Frias companies are using leading-edge technology in our transportation fleet, finance, treasury, marketing, shop repair, risk-management facilities and operations. An educated workforce is essential for our employees to be successful. Frias employs 2,424 employees, and we have 140 open job positions. Educating the youths of today is an important step

in preparing them for the employment opportunities in the future. A good education will help our youths become successful and will help them contribute positively to society. We believe funding education is critical to their success.

Having a well-educated workforce also attracts businesses to Nevada. Payment of the proposed BLF will come from our profits. The BLF for Frias will exceed \$100,000. We are prepared to accept this concept because funding education today will educate the youth who may be our future employees. We support the Governor's proposal and revisions to the Nevada Business License Fee.

David Goldwater (Desert Cab, Inc.):

Our president, George Balaban, was unavoidably detained, and he asked me to convey his sincere regrets and share his thoughts with you. Please refer to prepared testimony prepared by Desert Cab President George Balaban ([Exhibit E](#)).

Assemblywoman Bustamante Adams:

This is for Mr. Eckstaedt of the Frias Company. You said your contribution under this bill would be \$100,000. Is that a quarterly or annual payment?

Mr. Eckstaedt:

It will exceed \$100,000 annually.

Dan Chia (SolarCity Corporation):

Founded in 2006, SolarCity Corporation is the Nation's largest clean energy services provider in the Nation. We install one of every three rooftop solar systems in the 16 states we service. We employ over 9,500 people nationally and over 1,100 in Nevada. Most of those employees are in southern Nevada. We recently announced sales and installation in northern Nevada. We have over 190,000 customers nationwide and recently committed to bring solar panel manufacturing back to the U.S. Thanks to Governor Sandoval, SolarCity relocated its administrative headquarters to Nevada almost 2 years ago. At that time, we had about 200 employees. We have grown 450 percent since that time. We were attracted to the Silver State by its able workforce, which is at risk, the abundance of sunshine and the opportunity to contribute to the creation of a robust clean energy economy.

While our industry success is gratifying, we recognize that it cannot be sustained without a skilled and educated workforce. The industry requires installers, construction managers, electricians, computer software specialists, and engineers as well as numerous finance management, human resources and other business personnel who require education and training in one form or another beyond high school. We recognize our success is continued upon a meaningful and lasting partnership in the communities where we do business. We both grow and succeed together.

For this reason, we applaud and support the bold plan Governor Sandoval has proposed for education, including the emphasis on STEM education and his recognition of the vital role community colleges play in creation of a skilled workforce. We recognize this investment benefits all of us, and without an investment, we will not reap any dividends. We support the Governor's plan for education in Nevada and for funding it appropriately. After an initial review, we also believe the proposed BLF is workable and a reasonable means to invest in the State's future.

Assemblywoman Kirkpatrick:

I find it interesting that everybody loves this idea. I am glad to hear it. We have worked on this for five sessions to get everybody on board. We have heard in the past that businesses could not adjust their business model. You realize you will be expected to adjust your business model by November 15? How would you do that today as opposed to the last Session?

Mr. Chia:

I do not understand the question about adjusting our model.

Assemblywoman Kirkpatrick:

I will restate my question. You will have to adjust your business model by November 15 if this gets passed. You will have to do this in order to incorporate the money you have to pay. How are you able to do that so quickly? We have heard from many businesses that they would not be able to do that. How do you intend to do that?

Mr. Chia:

Based on our review, we will not have to change our business model or management. We understand this plan to be workable.

Maureen Schafer (Executive Director, Council for a Better Nevada):

We are a collection of CEOs and business leaders. We formed our group in 2005. We have experienced rich opportunities for our families and businesses in Nevada. In 2005, we saw Nevada's expansive growth and noticed the landscape was changing. That was the time to engage this State in health care, transportation or social services, the things that affected the quality of life. When we created our organization, our mission was to improve the quality of life for all Nevadans. At our annual meeting, one of our founding board members, Phil Satre, asked all of us what makes a state great and what makes a community great? We have all been in a wonderful community with a strong neighborhood and know what it feels like—good roads, strong health care system, good hospitals, clean air and good water supplies.

We also know what a fragile community feels like, including fragile schools and challenged schools. I trapped my colleagues in a room for 7 hours to have that kind of dialogue. We vetted many issues across the spectrum, including roads, health care, the judicial system and schools. We landed on the fact that educated citizens help to reduce these burdens. We need to go after K-12.

Council members meet each month and spend the majority of our time discussing K-12 education and how to use our time and resources to focus on our kids, their families and our community. We need to be able to affect our kids and their families. This will help the economy and future of Nevada.

We have been able to do many things about education to include impacting early childhood programming and Nevada's funding formula. We have moved the ball forward and are proud of it. This has been a partnership with you. We support the Governor's funding plan, S.B. 252. It is progressive and exciting. Other funding plans will come before you, and we welcome the debate and the discussion. We want to be part of that.

No new revenue plan is not an option. What makes a state great is the type of infrastructure that makes you feel good when you go to a community. We know what it is because we have been in those communities. Some of us live in pockets of those communities in Nevada. A strong southern Nevada is a strong Nevada, and we are all one Nevada. We have been here for 150 years. Our systems are outdated. It is time to look at the next 150 years, be bold and make changes. We believe you will do the right thing and find a way.

Tom Kaplan (Senior Manager, Wolfgang Puck Fine Dining Group; Council for a Better Nevada):

I have been a proud resident of Nevada for 23 years. I am testifying on behalf of the Council for a Better Nevada and Wolfgang Puck. We support S.B. 252. We know of no perfect revenue plan; there will be challenges within the State.

Wolf and I have had the privilege of doing business in Nevada for 23 years. We were the first independent fine dining group to come to Las Vegas in 1992 when most of our peers said that was a big mistake. The reality was that it was not. It has been tremendously good for us. We believe in investing in education. It is our inherent obligation to ensure our children in Nevada have a strong education. We have heard numerous times today that our future sustained growth and economic diversity depends on education. Before the 1980 Olympic hockey match when the United States team took on the Russians in the semifinals, Head Coach Herb Brooks said, "Great moments are born from great opportunity." This is such a great opportunity and such a moment.

Rudy Manthei:

I support S.B. 252 to modernize Nevada's education system. This will invest in the success of our children and future generations. My support for Governor Sandoval is rooted in my experience as a father, doctor, a small business owner in Las Vegas and as a Nevadan. I am not a tax expert. The BLF seems to be a fair and balanced attempt to approach taxation. It will take a genuine investment by the entire business community in order to begin the necessary process of fixing our ailing education system.

This plan is well thought out and takes into consideration the realities associated with running a business or professional service. I share Governor Sandoval's passion for funding an education system that has struggled for too many years. In order to compete in the twenty-first century, we must offer more than low taxation. We must commit to investing in the future workforce.

Otto Merida (President and CEO, Latin Chamber of Commerce):

We did a resolution at the Latin Chamber of Commerce. After a lot of struggle and going back and forth, we approved this resolution. I have submitted written testimony ([Exhibit F](#)).

Kenneth C. Evans (President/CEO, Urban Chamber of Commerce):

The Urban Chamber of Commerce supports S.B. 252 with two key caveats ([Exhibit G](#)).

Peter Guzman (President/CEO, Valley Center Opportunity Zone):

I live in Las Vegas. We all have one common love, and that is for this State. I have been a resident of this community for over 40 years. I support the concept of the Governor's bill that will help fund the most out-of-the-box way of thinking education plan this State has ever seen. As a businessman, I realize this will come at a cost, but more important, as a resident of this great State, I find it is a cost that is worth it. Nevada cannot continue to grow and succeed without an educated workforce. When properly articulated to, your constituents will stand shoulder to shoulder with you. You need to trust them and know some elections are worth losing when we are standing up for something good.

I did an unscientific survey. In my capacity as president of Valley Center Opportunity Zone, I represent small, small businesses. Small, small businesses are businesses that are smaller than small businesses. They are equally as important to this State. Most of them are minority-owned businesses.

I was shocked by the unscientific survey that I did. I expected to get beat up a bit, but I articulated it in a way they all understood it. They understood that it is their children who already got left behind, are in the process of getting left behind or will be left behind if we do not make some changes. It is unacceptable, and we cannot continue as we are.

Governor Sandoval knows that greater things await if hard decisions are made now. The decisions being made now are bold, courageous—and they are how leaders lead. I ask each of you to join him and lead with him.

Assemblywoman Bustamante Adams:

We have fought long and hard to make sure that small businesses have a voice in our community. You came up here for Diverse Chamber Day and the inaugural event. You made a commitment to come back.

This is no longer a concept. We have heard the details and outlined them section by section. Will your boards fully endorse it? What is your process?

Mr. Evans:

One of the things members of the Urban Caucus did was to educate ourselves. I went through the bill and looked at the charts and created an illustration. We could then see the raw dollar amount impact to our small businesses as well as the effective tax rate. The vast majority of our businesses pay \$200 now. It is supposed to go down to \$100. If things flow the way they could, they would pay an additional \$200. You could say that doubles their fees; at the same time, it represents a small fee compared to what some of the larger companies will pay.

We are committed to educate our members on the mechanics of the bill. We have talked to some of our small business owners to explain and show them the illustration so they can give us feedback on the impact the bill will have on them. We will continue those educational activities. We want to make sure nothing done is disproportionately detrimental to our small businesses. The last thing we want to do is create a mechanism that will cut them off before they get started.

Mr. Merida:

At the Latin Chamber of Commerce, most of our board voted for this bill. We will support this bill. We will watch what transpires. We have a luncheon on Friday and networking breakfasts. We will work with our membership to let them know what happens. We need to be committed to this.

I have been here since 1974, and we have talked about this for years. Students from the Hispanic community are dropping out of school like crazy. They end up cleaning dishes and going to prison. We need to do whatever we can to resolve this issue or it will take another 20 years. It is important to endorse this program and make a decision.

Mr. Guzman:

I am speaking as a board member on behalf of the Latin Chamber of Commerce. We took a vote, and it was not unanimous. We voted. Everybody could speak, and the outcome was that we do support the bill.

Assemblywoman Bustamante Adams:

Could you share your calculations with us, Mr. Evans? The members in your organization represent some of the constituents in my district. I would like to compare the data.

Mr. Evans:

Yes. That is the reason why it was important for us to come here so we could have this dialogue, share the information and research we are doing, and work with your staff. We want to make sure we come up with something that will work for all parties concerned.

Melody Chutter:

I am from Sparks. I am a sole proprietor. The expense of this proposal along with other taxes and Business License Fees I have to pay will be a burden on me. There are some sayings worth remembering in regard to the proposed hikes and changes in business permit fees.

The power to tax is the power to destroy. Business license fees can crush start-ups that could become large giants of the future. Apple Inc. began as a dream in the minds of a handful of young people in a garage. Tiny businesses with visionary ideas need to be left alone to develop and not be locked in the world of maybe someday by financial hurdles representing the insatiable appetite of an ever-expanding government. Tiny businesses do not get off the ground with the more-you-earn, the less-you-keep mentality.

Do not kill the goose that lays the golden egg. The real mission of businesses is to make a product people want at a price they will pay. Businesses employ people and remove them from welfare rolls, provide dignity, generate corporate taxes, payroll taxes and sales taxes. Detroit was killed by high taxes and hostility toward businesses. Must Nevada relearn these painful lessons? A nominal license fee is one thing. It is quite another to hike a more substantial fee by 100 percent. This speaks about benefitting kids but ignoring the fact the parents of Nevada kids need jobs that pay well. The companies that employ them have to pay more taxes.

Money flows to where it is welcome and away from where it is punished. Nevada has been hospitable to businesses when other states were hostile to them. This will work in reverse if Nevada adopts this approach to business. If

welcoming Tesla was such a good policy, why not welcome every company here?

A graduated license fee is wrong. A tax punishes start-up and expansion companies and encourages companies to look elsewhere to start and expand. Companies need clarity, consistency and unchanged tax rules. This interferes with business decisions, robs jobs and misallocates resources. We are all poor as a result.

There is no morality in denying people the right to earn their own living by placing artificial barriers to enter the economy. Nevada's economy is struggling as it is. In middle-class Spanish Springs, many stores are empty. These stores once provided people jobs, incomes and futures. Store resources are exhausted after paying too many taxes. The United States has some of the highest corporate taxes in the world. The Affordable Care Act is a crippling burden and has more regulations and red tape. Do you expect our companies to be able to compete against companies in China, India, Japan and Germany? To be great, a company must compete internationally.

Throwing money at schools is not the solution, it is the problem. Like all of us, schools need to learn to do more with less. We are not heartless or want kids to fail, we want them to succeed. Both kids and the schools have to learn to set priorities and limits, innovate, downsize and restructure. They need to learn to make hard choices. We cannot fund a twenty-first century school system in a nineteenth century model of learning. A money grab is not productive. It teaches bad lessons. It teaches the school system to keep grabbing for more. It shows the kids no limits to resources. Each of these is a path to failure.

We need to think outside the box. Some kids could learn from home on a computer. The teacher could focus on fewer children. The teacher can give more to the kids instead of babysitting. It would save on transportation, lunches, school expansion. Testing can be done online. That saves on paperwork. Many avenues may be looked at instead of tax and spend.

Assemblywoman Bustamante Adams:
Are you a business owner?

Ms. Chutter:

Yes. A sole proprietor.

Assemblywoman Bustamante Adams:

What type of business is it?

Ms. Chutter:

I am a cosmetologist. I do not make full-time money. I am working hard. I have the State tax, city tax, my license and insurance. I have to pay rent. Some of the booth rents are \$700 or \$800 a month. I will not be able to make it if this continues. I am not a big corporation. I am one person trying to make it. I have a disability, and my communication is difficult. Trying to communicate over someone who can hear and do everything I cannot do is hard. I have to compensate.

Assemblywoman Bustamante Adams:

Have you calculated the new fee?

Ms. Chutter:

I was told it will go from \$200 to \$400. That is not including my other expenses.

Linda Sanders:

I am not excited today. I am grateful for an opportunity to state my concerns. I am in my thirty-sixth year of owning a dog boarding, training and grooming kennel in North Las Vegas. I always paid the City of North Las Vegas business tax. A few years ago, the State decided it wanted in on my success and began charging me a \$100 a year for a business license. A few years later, it doubled, and now you want to double that. Through my 35 years of business, my bottom line has risen and fallen. When years were good and I had as many as six employees, I saved up money so I would be okay in the hard times and keep my business open. The last 7 years of economic depression have been tough for me, but I did save money and was able to stay open with two employees. I keep them working because they need jobs. My stockpile is getting smaller each year. I do not quit because I hope the economy will improve. Who knows when?

Have you noticed all the empty small businesses in North Las Vegas and the strip malls? Am I considered a success because I am still in business? My

reward is to double my Business License Fee, which has already been doubled. I do not appreciate it. I implore you to stop taxing hard-working small businesses that are hanging on to stay in business. This does not work for me, and I am not willing to pay more taxes.

Knight Allen:

I am confused. Every time I turn around, the message is that we are a divided society. It is not a division, it is a polarized society. We are so far apart, we make the Grand Canyon look like a tin cup on a putting green. In so many areas of society we have some problems. But not in taxation. In taxation we seem to be in a situation where everybody agrees. It does not matter where you land on the political spectrum. You can be on the left where people say government is everything or you can go to the other side where people say business is everything. In the shadows and shadings in between, everybody is in agreement. Businesses pay taxes.

When Governor Sandoval first brought forth this bill, he stated, "I know I am asking a lot from the business community." He believes that businesses pay taxes and the world is flat and businesses pay taxes and the sun rises in the west and sets in the east and businesses pay taxes. The earth is the center of the universe and the sun and the planets and the entire solar system revolve around it and businesses pay taxes.

Businesses do not pay taxes. They never have and they never will. From 1776 up to the twenty-first century, "the profits of merchants are a subject not taxable directly; or that the final payment of all such taxes must fall, with a considerable overcharge, upon the consumers," said Adam Smith in *Wealth of Nations*.

In 2002 and 2003, the Blue Ribbon Panel on the Governor's Task Force on Tax Policy in Nevada found the gross receipts tax was hidden in the cost of goods and services sold. Senate Bill 252 is a gross receipts tax.

As quoted in the *Las Vegas Sun*, November 24, 2002, Task Force Chair Guy Hobbs stated "If you know what's coming in terms of the tax, you will be able to adjust the price of Pop Tarts or dog food in a way that will be most palatable for your clients or most profitable for you."

My last quote: "There is no tax that doesn't ultimately get passed onto the consumer," said Governor Kenny Guinn in the *Las Vegas Review-Journal*, January 16, 2003.

Businesses do not pay taxes. That is the reason there are no working stiffys on the Forbes list of the richest Americans. All these folks are capitalists. They have their wealth safely tucked inside the corporate structure, and there it sits growing and growing and compounding and compounding, tax-free year after year, decade after decade.

Only the market pays taxes. Only the people pay taxes because the people are the market. Senate Bill 252 violates the core principle of taxation in a free society, which is do not tax the necessities of life. This bill is a tax on food, a tax on rent, a tax on utilities and medical care. It is all in the bill. This tax is going to strike at the people of Nevada over and over again in all those areas where they must function just to survive.

Senate Bill 252 needs to be rejected. Everybody is operating on this insane notion, and that has to go out the window.

Former Governor List pointed out that if you do not support this increase in revenue for education, then you need to have an alternative. There has to be something else. It cannot be no taxes, no taxes. I am trying to communicate to you that this classic liberal principle of do not tax the necessities of life and the economic reality that businesses do not pay taxes is not a no-tax system. If you want to raise the level of taxation in this State, it is okay. If the votes are there for it, fine. It is important to do it the right way. The right way is to understand good taxes and bad taxes. Any tax rooted in the free economic choices of a free people is an okay tax. You can put it on the table and you can fight about it. It does not matter what side wins because it will still be a good tax. Any tax not rooted in the free economic choices of a free people is a bad tax. I do not care for its golden objective, greater good or general welfare, it is a bad tax.

Nevada's tax structure is rooted in the free choices of the free people. The gaming tax is a perfect example of a tax rooted in the free choice. The sales tax is constantly under attack and is regressive or repressive. Our sales tax does not strike at the necessities. It does not tax food or medicine and stays away from most of the necessities of life. It is an okay tax.

Assemblywoman Kirkpatrick's proposal on the Live Entertainment Tax is rooted in the free economic choices of a free people, and it should have been on the Governor's desk a long time ago.

The MBT is a bad tax. It is a direct tax on labor. You all have said this is a bad tax, and S.B. 252 is a bad tax. It is as bad as it can get. I hope it gets defeated. You are all bright and intelligent people. You have the intellectual capacity to dump this bill and restructure Nevada's tax base to the free economic choices of the free people. The door is locked from the inside. I cannot open it, only you can open it. You have the ability and the opportunity.

Alisa Bistrek:

I am a resident of North Las Vegas. I would like to talk about business first. When business is booming, people spend more money. You do not create true revenue or grow an economy by raising taxes. When founded, the United States of America, we were the first nation in which every individual had the right to prosper from his or her own labor and property. I am a native Nevadan, and I remember the days when Nevada was booming and we had a growing economy and lively construction. I was here when Governor Kenny Guinn ran on a no-tax platform in his first term. In his second term, he raised taxes to pay back his buddies who got him elected. That raised the business taxes, licenses and fees. From that point forward, this type of activity has taken Nevada down to not being a top business destination.

It is an oxymoron to say we are going to charge businesses more so they move here. I understand the education part.

This is Governor Sandoval's second term. If he aspires to be a Senator, making a bold move like this may hurt him. Most people voted conservative at the last election, and they do not want taxes raised.

Five people live in our home who cannot afford to move out because the cost of living is too high. They are trained well for gainful employment. Part of the reason so many of our businesses have taken factories to other countries is because of the regulations we have in the United States. The U.S. used to have a higher rating on the Index of Economic Freedom.

Chair Roberson:

I need to interrupt you. We need to understand the distinction between testifying in opposition to S.B. 252 versus public comment. At the end of the hearing, you can talk about a broader array of issues if you would like. During this part of the hearing, contain your comments to the bill before us.

Ms. Bistrek:

We can look at other options in order to improve our education. There is not accountability for the funds there now. We all want a better Nevada and a better education for our children. I can answer questions now and wrap up.

Carole Vilardo (President, Nevada Taxpayers Association):

I am going to discuss the bill. I am also not making any general comments because I want to point out some things in the bill that may be problematic that you may want to consider changing if you pass the bill. I will offer some suggestions for changes.

The first one is section 4. I made and sent a section-by-section summary to my members. Most of you have seen this. I question using the fiscal year for the State instead of the business. I have received phone calls from businesses saying that not having the fiscal year based on the business fiscal year as they file with IRS is a problem. I can think of a number of reasons for that. I do not see a problem to have that amended because a quarter is a quarter. Businesses are concerned with audits and having the records that correspond to what they provide with their fiscal reports. The State's fiscal year is not the norm for most businesses. The majority of businesses use the January-to-December calendar with some exceptions. Some cannot start in a quarter. They can start in an odd month. They do not start July 1. I would say it is more important to accommodate business in this particular instance.

Section 19 is an issue about business categories. It is easy to say "primarily." The question that came up was primarily what—is it revenue or a capital expenditure? From testimony by Department of Taxation Director Contine, it is primarily the revenue. That needs to be said. What is the big secret about how you define "primarily"? Doing so will avoid the issue of a business making an assumption that turns out to be wrong when they are audited.

There is the issue of gross revenue. This causes some confusion. I have had calls from two multinational companies and an email from one of our regional members wanting to know exactly what constitutes gross revenue. Is it supposed to be the pure activity of the business from the sale of a service or product or does gross revenue include interest received or whether someone sells an expensive piece of machinery that is obsolete because it is being replaced? That gives me revenue. Does that become part of this revenue from my business? What are we talking about in revenue?

Revenue is supposed to be generated from the product sales or services that you provide. There should not be a problem saying that. If it is more expansive than that, then that should be said. I realize that regulations can be adopted to do this. Maybe I am spoiled. Whether I like a tax or I do not, usually we are specific with how we calculate the tax in Nevada. A cigarette tax is the mill tax per unit of cigarette based on an amount; an alcoholic beverage is sold by volume; or sales are based on the gross price of an item. The MBT goes on and on. This is not specific. You need to be specific.

I appreciate that for a year, no interest and penalties apply if a business does something wrong. What happens after that year when they made an assumption and the assumption is wrong? Then it is penalties and interest, and you can go back 4 years. That needs to be clarified.

Senator Ford:

You reminded me of a question on the interplay between sections 5 and 6 which define gross revenue and Nevada gross revenue with section 50 which says that a business method of accounting for gross revenue over the calendar year for the purposes of determining the amount of the State BLF must be the same as a business method of accounting for federal income tax purposes. Can you or someone else explain the interplay there?

Ms. Vilardo:

I do not know if I can explain it, but frequently when we approach bills that deal with income tax or gross receipts tax, we have had a specific frame of reference to a federal income tax form as with the forms one uses for a natural person. You do not have that here. Depending on which line you use and the definition, some accountants will say you have a few references that amount to

gross revenue. That is why I suggest it would be cleaner to have that definition in place. There may be another explanation from people who worked on the bill.

There is a similar issue with Nevada gross revenue. It is clearer if you mean strictly the benefits and remuneration from the product or service, such as Senator Hardy providing services as a physician or someone providing services as a harpist. What is it? Is it what you are paid for working in Nevada or performing in Nevada? Is it whether you receive any additional benefits, such as interest because you have a set-aside account? Can you be more specific? This is something we have tried to do previously in other tax legislation.

I am testifying neutral at this point. I have sent a survey to my board, and I have not yet received sufficient responses. My board requires that 60 percent of the board respond and 55 percent agree on the position. I am not near that. I sent out a reminder today asking members to please respond. If I do not get 55 percent responses but I get over 60 percent agreement, we would not have a consensus. That does not stop me from pointing out problems with the bill.

With all the discussion about unmanned aerial vehicles, I do not think they are included in the section 30 definition on air transportation. Were they to be left out? That becomes another interesting issue—the ability to address items we did not know could occur and suddenly occur. We have learned that lesson the hard way.

My last issues are the regulations referenced in the legislation. The MBT was moved to the Secretary of State's Office to expand it so the Office would capture all the Title 7 companies. Governor Sandoval put a moratorium on new regulations and asked each agency to look at its regulations to see what could be repealed. The Department of Taxation repealed its regulations dealing with the Business License Tax because it was no longer dealing with it. One of the repealed Department of Taxation regulations was due process. In section 51, if a business fails to pay the BLF and any interest and penalties due, the Department may revoke the State business license and the Secretary of State must revoke the business charter or authority to do business under the State. That is pretty severe. If it is warranted, so be it. Could we have a due process provision? I found that the Secretary of State's Office has no formalized due process provision in a regulation that says if you are aggrieved by this decision, you have 30 days. Make it a formal process. The only other regulation by the

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Secretary of State's Office that went to the MBT dealt with the resident agents and the home-based business issue. You have new regulations at that Office. You have given the necessary regulatory authority, but I would ask the Secretary of State to have a due process provision.

I have a few more general comments. Regardless of the positions you have heard of support, opposition and neutrality, something will be done this Session. I just do not know in what format. This bill has come to you early enough to be vetted, and any other bill that comes to you should be vetted as well. We do not want the problems Barbara Smith Campbell identified when we had to have 32 regulatory hearings. The Tax Commission wrote law because the bill passed was so flawed, the provisions could not be administered. The material the Tax Commission wrote as law in those regulations was adopted during the 73rd Session in statute. I was pleased to see that done. When you are considering these bills, look at the other bills you are considering that impact business. I was scanning through the list for a legislative report. Given a bill for paid sick leave, there is nothing wrong with that; it would be nice to enact it. Look at it in context of everything else you might have. Some businesses pay a per employee charge, depending on circumstances, for the Affordable Care Act. When dealing with taxes, everybody wants the revenue for his or her programs. We do not look globally at what we have done to impact business.

Paul Enos (CEO, Nevada Trucking Association):

We oppose S.B. 252. Because we oppose this tax does not mean we oppose any tax plan or needed revenue for education. We are open to work with all of you to find a solution to pay what we need to enhance and improve our education system.

We have an issue with a revenue-based tax, especially one based on gross revenue. I represent an industry that has a small profit margin. We are very competitive, and the average profit margin for the trucking industry is 1.65 percent. We are a high-volume, low-margin business. Increases in fuel prices can eliminate the profit. We saw that happen prior to the recession in the spring of 2008. A number of trucking companies went under, and then the rest of the economy tanked. We touch every single sector of the economy. What happens to the economy has an absolute impact on the trucking industry. In Nevada, the trucking industry moves 94 percent of all freight.

I would like to speak to some specifics in the bill. In section 6, what is revenue? We have the same question. We are capital-intensive with regard to our equipment. It costs a lot to buy a new environmentally compliant truck. They cost \$150,000. We are constantly replacing our fleets. We sell the trucks that are not environmentally compliant at auction. Would that be counted as revenue? Ms. Vilardo raised a great question. That impacts our industry. I do appreciate the thought that Mr. Aguero and the Governor's Office put in this bill.

I want to speak to the exemption for interstate transportation. It is really tough to tax the trucking industry on interstate transportation. Do you do it at the point of package delivery or origin? Do you do apportionment on miles? There are many different schemes and concepts. Texas and Washington State exempt interstate transportation, and we do the same in Nevada.

In section 21, subsection 1 paragraph (e), the bill exempts interstate transportation. That means multinational businesses that have a large presence in Nevada. The business is primarily interstate transportation. Interstate trucks have less of a burden than our intrastate trucking companies. Those companies do not leave our borders. That is an issue, and we have seen that issue in Texas and Washington. The interstate trucks are bearing the biggest share of the burden for the industry on that tax.

Senator Ford:

Can you look at section 21 and let me know what you think?

Mr. Enos:

It is section 21, subsection 1 paragraph (e): "Gross receipts from the sale of transportation services are situated to this State if both the origin and destination point of the transportation are located in this State." There is not a tremendous amount of movement in Nevada if you look at it globally, where you have both the origin and the destination here. You do have that in the mining industry where you move ore from one mine to a mill or a processing facility at another site. You have it where you have manufacturers located here that are moving to a warehouse. We do not make a lot here; we do not grow a lot here. We end up exporting and importing a lot into this State. That is why you have greater burden on those intrastate carriers. Section 21 exempts interstate transportation.

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Senator Ford:

Is it your contention that the only portion of section 21 applicable to your transportation clients would be in subsection 1, paragraph (e)? I want to see why other provisions of that would potentially address some of your concerns.

Mr. Enos:

We believe this provision exempts the lion's share of movements in the trucking industry. Intrastate movements that occur in Nevada—destination and origin—will be subject to this tax.

Chair Roberson:

All things being equal, would you like it to be that way?

Mr. Enos:

Absolutely.

Chair Roberson:

I do not want the Committee to think you are upset about the provision.

Mr. Enos:

No, we are not upset about the provision. If this tax goes through, that is a good provision.

Chair Roberson:

It seems like we are talking a lot about an issue you should not object to.

Mr. Enos:

Those intrastate companies that only operate in the State of Nevada—the small, locally based companies—will bear the burden of the Business License Fee.

Senator Ford:

I understand the point now.

Chair Roberson:

Is the alternative with this bill to include interstate transportation? You do not want that either.

Mr. Enos:

We do not see the fair alternative in this bill. That is why we are open to look at other plans.

Chair Roberson:

You and I have spoken about this on many occasions during this Session. It is my understanding your industry would pay less under this than if we relied on an elevated MBT to come up with the same revenue.

Mr. Enos:

For many of my member companies, that is correct.

Chair Roberson:

Under S.B. 252, your industry will pay less than they would with a higher MBT rate. What alternative would you suggest to S.B. 252?

Mr. Enos:

We do appreciate the issues people have with the MBT and it not being broad. We think that the MBT could be broadened out, but we would pay more.

Chair Roberson:

When you say broad, do you mean taking out the exemptions? That will not raise the kind of money to fund this budget. You just told me that raising the top rate would cost you more money than S.B. 252. Give me another alternative. Taking out the exemptions on the payroll tax will not cut the mustard.

Mr. Enos:

If we take the exemptions out of the payroll tax and look at an increase, that is something our members and board would support. We would be more than willing to work with the Legislature and the Governor's Office and the business community on something that works for everybody.

Chair Roberson:

I do not understand you. You suggest you would prefer an elevated MBT.

Mr. Enos:

An increase in the MBT as opposed to the Business License Fee.

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Chair Roberson:

Despite the fact you tell me that raising the MBT would cost your industry more than S.B. 252.

Mr. Enos:

We feel it would spread the burden fairly. We would not have the lion's share of the burden for our industry on the small intrastate businesses. Our businesses that do interstate trucking and interstate transportation and have a presence here would bear the burden.

Chair Roberson:

If you are concerned about fairness within your industry, we should include interstate transportation.

Mr. Enos:

There are many problems if interstate transportation is included in this bill. That is why Texas and Washington exempt it. One of the biggest issues Texas has with the margins tax and the business and operations tax is that it does place the burden on intrastate carriers. It is difficult. There are Commerce Clause issues and many other issues when you tax interstate trucking. We have many trucking companies that move a lot, but they do not move a lot in Nevada. They move it to California and Arizona.

Chair Roberson:

Please clarify this. Under S.B. 252, there is a disproportionate burden within your industry on companies that provide intrastate transportation. Based on what you and I have talked about, would they pay less than if we raise the payroll tax?

Mr. Enos:

Most of those companies would still pay less on the Business License Fee.

Chair Roberson:

That is what I want to know. I will not interrupt you for a while.

Mr. Enos:

We had a long discussion on this and the policy. I talked to my colleagues in Texas and Washington. We talked about their taxes, which seem to reflect

some of what is in S.B. 252. They said even though you are going to pay more today, the tax you have now will get more complicated. Those rates will be as low as they are today than they ever will be. They are going to go up and it will get more complicated.

My colleagues in Texas and Washington said they have a scrum every Legislative Session where they fight between different business sectors about who gets an exemption or a lower rate. They said it is a dark road. If you can have a broad-based tax that has a single rate and is fair, that is a much better way to go now and in the future even if you pay more. It is not that we are going to look at the bottom line, we want to look at the policy. What policy works best, not just for our industry, but for all those other industries and sectors we touch?

That is where the board of the Nevada Trucking Association stands. It is not about the bottom dollar, it is about creating good tax policy. I appreciate having these discussions. We have had more discussions on tax policy than ever before. We had a lot of them in 2003. We talked about a services tax and a gross receipts tax, and we came up with the MBT. This is not an MBT hearing, but I know issues with the MBT can be fixed and addressed.

Senate Bill 252 has issues also. There are issues with the rates between the sectors. I have members in trucking, warehousing and light manufacturing—pick and pull. The rate on trucking is comparatively high when you look at the rates in the bill. We are 0.221 percent on average. Warehousing is 0.139 percent. My members in trucking and warehousing who pick their NAICS codes look at this bill and suggest you create another entity and separate our business or they will choose the lowest NAICS code. That is category jumping. That has been an issue in other states. I appreciate that you try to address that. That is the first determination to pick that rate. For our industry and for the people who have the vertically integrated businesses and the multiple lines, they will choose the lower rate.

In section 8 regarding the pass-through revenue, the trucking industry has a lot of pass-through revenue. We have owner-operators and subhaulers but not enough trucks to take care of that particular client because it is a construction project or the mine decided to up production, so we are out to get more trucks. Instead of purchasing more equipment, we call another trucking company to

come and help us. That pass-through is not considered an increase to gross receipts and would not increase our tax obligation.

Section 50 talks about the type of accounting method to use. The trucking business runs on a cash basis because it is easy. We actually book what we take in. Most of my members run an accrual, which means you book that revenue when you bill it, but before you receive it. To make that payment on a quarterly basis before we get that revenue—sometimes payments are 60 days or 90 days ahead—causes cash flow issues, and we may not receive the revenue. There are some provisions to write-off bad debt. That is an issue for us.

I appreciate coming here and talking about these concerns. It is important to have a continued dialogue with you and the business community on a method of taxation that works for everyone. If this bill is it, we have some issues to address.

Chair Armstrong:

When this type of tax was passed in other states, you said the reaction had scrums in all the subsequent legislative sessions. Have you looked up how the rates were impacted after the first session it was enacted in other states? We are evaluating our future under this proposal. We are evaluating if you would pay more under the MBT versus S.B. 252. If the rates do increase after enactment, that could eliminate the argument that the next Session we will pay less under the MBT. Can you tell me about the behavior of that tax in those states after it was enacted?

Mr. Enos:

I can speak about Texas. I do not have the bill numbers. This is from my colleague in Texas. He said after the first session, they got an exemption for interstate trucking that mostly hit the gravel people. Beyond that exemption, I do not know what happened to the rates. I will be happy to get that information for you from Texas and Washington State.

Chair Armstrong:

I appreciate that. If we are basing this model off other states and their experiences, we should see the reaction after the initial option.

Assemblywoman Neal:

When you get information for Chair Armstrong, could you also get my question answered? When we deal with interstate, you have to meet this economic nexus threshold. What happens when an entity meets it one year and does not the following year? How do the states treat the trucking companies or entities that are travelling through? The state captured them one year and then they did not capture them the next year. That means that revenue was not collected.

Mr. Enos:

There are some different ways to do that. Every interstate trucking company has to be a member of the International Registration Plan and the International Fuel Tax Agreement (IFTA). That shows how many miles the trucks are traveling each day. It does not contemplate their revenue. That would tell you if they have a nexus in traveling but not necessarily an economic nexus. There are some issues with the definition of nexus in the bill. If a company does not pay any wages in Nevada, it would be subject to that minimum \$100 tax per quarter. An interstate carrier that does not have any obligations would be filing the \$100 tax each quarter regardless if it has any taxable gross receipts in this State. We could use the International Registration Plan and the IFTA tax returns to determine if companies have nexus.

Assemblywoman Neal:

When a budget goes out, we project what we pay over a biennium. That money is out there and has been captured. If a large number of entities fall into the threshold where maybe they were paying \$500 and now \$100 because the threshold changes, the dollar amount you expect to get in return is not there the following year. There is an unanticipated shortfall. That is why I am curious about other states that are using a NAICS setup. How do they deal with the projection when it comes in as a shortfall? If you have an interstate relationship, is something off the next year when you are in a biennium cycle?

Samuel P. McMullen (Las Vegas Global Economic Alliance):

We hired Dr. Susanne Trimbath as a resource for these debates and deliberations. She is an internationally credentialed and respected economist who has a history with the Milken Family Foundation for education reform and education funding and also with the United States Chamber of Commerce.

Susanne Trimboth, Ph.D. (CEO and Chief Economist, STP Advisory Services, LLC):

I was tasked by the Las Vegas Global Economic Alliance to look at six proposals over the last 10 months. I have prepared a brief summary of those results as they relate specifically to the BLF proposal ([Exhibit H](#)). My tasks from the LVGEA were narrowly defined. I was to analyze the potential impact on changes from these taxes and changes on economic development in Nevada. I will begin by explaining how I measured economic development before talking about specific criticisms heard today and others leveled at revenue-based collections that the proposed BLF sought to avoid. I have a few comments about small businesses and the impact this will have on them.

Of all the proposals I looked at, my preference is for the BLF. It will have a minimal impact on economic development, it shifts some weight from payroll to revenue, which can have a positive impact on jobs, and improving education in Nevada will have a positive impact on new business investment in the State. In order to minimize any negative impact on economic development in the final legislation, an assurance is important that the new revenue will be spent to improve education and that the legislation also achieves an ease of compliance for small businesses.

The main justification for increasing government revenue now is to improve the State's education system. Each of the proposals I analyzed in the last 10 months was criticized on one common ground—no guarantee that the money would be spent to improve education. Any warning for a set-aside that could address this question would go a long way toward giving new businesses the confidence that improved education is in Nevada's future.

A good education system benefits economic development in easily identifiable ways. The link between education, income and employment is fairly straightforward. Job growth goes up with education and unemployment rates go down. Spending on education can offset the impact of increased business costs through improvements in human capital resources in the State. In this direct way, businesses will reap benefits from government spending that not only maintains the marketplace for goods and services but also provides an educated labor force.

I measure economic development in three metrics: gross state product, which is the output; new business investment, including machinery and equipment, that tells us when new businesses are starting and/or expanding in Nevada; and then I look at jobs. Business costs will increase from increased costs, and those costs are generally passed on to consumers in the form of higher prices. Higher prices have a tendency to reduce demand for goods and services. In the case of the BLF, I estimated a potential decrease in output of approximately \$15 million. This is a negligible amount in a state with output over \$130 billion.

Changes in business investment also result from increased fees because they raise the cost of capital. Economists agree that higher state and local taxes reduce business investment at a rate of 30 cents on the dollar. For a \$100 increase in taxes and fees, you could expect to see a \$30 decrease in business investment. Total taxes paid by businesses in Nevada are \$6 billion. The simple way to understand the mathematics of this is that increasing business taxes by \$200 million would have the impact to reduce the growth of new business investment by about 1 percent. Compared to recent growth in the State, that is not a decline in new business investment, but a reduction in the growth rate.

Job growth is the last number to look at. There is a relatively small effect on jobs from taxes. The larger impact comes from general economic conditions. If I separate small businesses from large businesses, job growth in Nevada did not fall with the implementation of the MBT in 2003, but it did react to the 2008 Great Recession. Smaller firms have higher job growth rate than large firms. That is why we call the small businesses the engine of growth in the U.S. In both cases, large firms and small firms, job growth in Nevada was ahead of the United States after the 2001 recession and stayed that way until 2008.

An analysis of state tax changes in response to the 2001 recession done by the Center on Budget and Policy Priorities in Washington, D.C., came to a similar conclusion. The states were grouped according to total increases in the 3 years following the 2001 recession. There was no difference in the growth of personal income, employment or median wages attributable to the changes in taxes. Other studies have shown that shifting the business tax burden away from payroll and onto revenue can have a small but positive impact on jobs.

Economic development is not all about the numbers. Things that make Nevada unique are an advantage by comparison to other states. For some industries, there are few alternatives to locating in Nevada. Leisure and hospitality with the casinos and mining are notable examples. These industries are established to the point where firms locating in Nevada gain advantages. Those advantages come in the availability of workers with a particular set of skills and experience, the opportunity to interact with firms in the same industry and a proximity to suppliers that understand business needs. Those factors lower investment cost and can help offset some of the potential negative effect of higher cost. A notable example of this effect is Delaware's corporate law. Businesses are more likely to incorporate in Delaware because of the corporate governing rules than they are because of the tax changes.

Three common criticisms of revenue-based taxes also apply to fees. Since the amount of the proposed obligation is calculated from business revenue, it is important to address these. You have heard some of these today. Corporate revenue moves with the economy. It lowers the state's collection during a recession just at the time when the need for services is rising. Revenue-based collections can vary with changes in the economy. The higher up on the income statement, the less volatile the revenue.

Another criticism is relying on Internal Revenue Code (IRC). That can reduce the State's revenues without any action on your part. After the 2001 recession, changes were made at the federal level, and many states began decoupling from the IRC for that reason. The justifications for using the IRC include conserving legislative, administrative and judicial resources. It is easier to do it that way, and it also reduces compliance costs for taxpayers as they have one set of definitions to work with. The primary disadvantages are tax autonomy to the federal government and exposure to revenue volatility that stems from changes in federal taxes unrelated to your state taxes. The draft BLF legislation relies on several IRC definitions.

Assemblywoman Neal mentioned nexus. States rely on this economic nexus to establish the basis for collecting fees from out-of-state businesses. Nexus is an economic presence, such as having affiliates in the State or making efforts to generate sales in Nevada. That is in contrast to physical presence, which is the form of nexus necessary for sales tax.

Dr. Trimbath:

Combined reporting requirements can capture income generated by in-state operating segments of out-of-state firms. At least five states lost challenges on this point in the last 12 months. They included challenges in the state superior courts. The U.S. Supreme Court has not reviewed any of those cases, so it could remain for the State of Nevada to pursue collections in the courts on that matter. Successful legal defense has happened in states where the revenue collection was defined as a fee instead of a tax. For example, someone talked today about Washington's business and occupation tax. Other courts have held that it was a privilege fee, specifically related to the ability of businesses to export local markets in Washington.

Courts in New Jersey found that the Delaware Franchise Tax is not in fact a tax; it is a fee charged for the privilege of existing under Delaware's corporate laws. Just because you call it a fee or tax does not mean every court in the Nation will say it is a fee or a tax. California's gross receipts fee on LLCs was challenged successfully and considered to be a tax and not a fee because the money went to the state's general fund. It was not segregated for specific purposes. These and other decisions can be made in courts outside the State that will have an impact on Nevada multistate companies.

According to Kathleen K. Wright, the author of the article in the 2011 *The Tax Lawyer* on the "Unintended Consequences of Gross Receipts Taxes," there are three primary points on this distinction. The first one concerns whether the fee is fairly related to services provided; it is computed using a broad measure of market access related to the revenue generated, and the money is segregated in a special fund for a specific purpose.

I have one final point of criticism for these gross receipts, margin-based state taxes or fees or anything calculated based on revenue. That is pyramiding. Mr. Aguero mentioned earlier that he thought he had not accomplished one of the objectives he had, which was to avoid pyramiding. Some analysts are opposed to any revenue-based collection because of this point. The theory of pyramiding is that taxes will be paid repeatedly on each good and service as it is incorporated into a more complex final product. That theory holds exactly in economies without trade. The producers of the inputs and the final goods are located in the same jurisdiction. In our interstate global economy, that is not the reality and is far from the theory.

In an ideal world, producers always make efficient production decisions and there are no exceptions or exemptions to sales taxes. Sales taxes are offered as an alternative to the revenue-based fee or tax by opponents. The reality can be seen in the Department of Taxation's "2013-2014 Tax Expenditure Report," which listed nearly \$900 million of exceptions to sales and use tax in 2013. Our calculations on industry clusters showed the BLF rate could reduce the potential for pyramiding even further. I used a statistical study recently published by the Multistate Tax Commission that provided us with evidence that the magnitude of the pyramiding effect is much smaller than the theory would suggest. Using data from that study, I determined that the Nevada industries with the highest share of intermediate inputs have some of the lowest fee rates in the proposed BLF.

Health care and social assistance uses an average of 30 percent of their final product composed of intermediate goods. Manufacturing is 61 percent of its final product, the result of intermediate goods. The BLF rate for health care is 0.2 percent and the BLF rate for manufacturing is 0.09 percent, about half of health care. The industries with the highest potential for pyramiding have achieved the lowest BLF rates in the proposal.

Businesses make payments to states based on some combination of revenue, payroll and assets. The proposed BLF would effectively move weight away from payroll and onto income by 4 percent. Economic research shows that reducing the payroll weight can increase manufacturing and employment with larger effects in the long run. A 4 percent shift in the weight could translate to a 0.24 percent improvement in employment, especially in manufacturing, primarily in durable goods. Reducing the rate on payroll could also effectively reduce taxes for firms that only do business in the state.

Larger firms have the most to gain from not increasing the MBT. The speaker before me, Mr. Enos, attested to that. Smaller firms have the most to lose from a shift to revenue. The MBT provides an exemption for small businesses with payrolls below \$85,000 per quarter. I used data from the Small Business Administration and estimated that 60,000 service firms pay the BLF but not the MBT because of that exemption. For them, the proposed BLF could still represent a minor increase in relation to the overall State and local business tax burden because sales taxes and property taxes are a much bigger share of business costs in Nevada than the MBT or the proposed BLF. A concern for

small businesses is the cost of compliance. If it is possible to present a calculated spreadsheet for the BLF, something similar to what is now available for the MBT, this could go a long way to make it easier.

Three economic theories justify raising corporate costs for doing business in the State. It is a convenient way to collect taxes from shareholders for undispersed corporate profits. It can improve corporate governance by imposing a cost on undistributed income. It ensures businesses pay for the benefits provided by this State. A good policy will take a rational approach to applying these theories.

I noted five bills pending in the Senate, Assembly and as bill draft requests for tax legislation in December 2014. Our key economic development concern is the uncertainty generated by repeated studies suggesting more and more revisions to business fees and taxes in combination with the wide variety of proposed legislation. The fact that this debate is taken perennially makes for undue regulatory uncertainty and impacts the ability of businesses to make efficient strategic plans for operating and investing in Nevada.

Assemblyman Trowbridge:

Business categories are the important issue. Are the you familiar with that concept and the concept of placing them in different industries? Do they have any relationship to anticipated profits of that industry?

Dr. Trimbath:

I looked at the proposal and recognized what happened. Analysts took the experience of another state that had started with gross revenues, made some subtractions and added the tax rates. We know that state went through several iterations, including some as the result of litigation. In the end, the rates applied were the realized rates instead of the statutory rates. The realized rates take into consideration this concept you have if one industry has a higher margin than another or if one industry has a higher profit than another. We know that different industries react in different ways. This is the key reason that all states want to diversify their economies. Different industries react differently to different parts of the economy and to different aspects of regulatory activity. The biggest complaint against gross revenue and margin taxes is that it is flat across the top, and everybody pays the same rate. Not all businesses generate income the same way. In this list of industries with a variety of BLF rates, I look to see their input, the differences in the way they use intermediate goods. From

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that I can see diminished potential. That was one of the things that attracted me to this proposal over and above others I evaluated.

Assemblyman Trowbridge:

What state was this modeled after?

Dr. Trimboth:

This was modeled after the revenue collections in Texas.

Assemblyman Trowbridge:

You stated different industries have different rates of return and different profit margins based upon different local issues.

Dr. Trimboth:

Yes. Among other reasons.

Assemblyman Nelson:

You alluded to a few ways that the plan could possibly be improved. Do you have any concrete suggestions on how it could be made better?

Dr. Trimboth:

I tried to emphasize two things that could be improved. First, wording for a set-aside assuring the revenue will be spent to improve education. It is stated in the proposal, but I did not see it in the draft legislation. Companies hesitate to move here because of concerns about the education system for their employees' sakes or concerns about an educated labor force. If I am a business thinking about investing in Nevada and I see that this money would be for education in that legislation, it would lend more competence to that business. Second, I had concern over caution about ease of compliance for small businesses, and that may not be legislative but in implementation.

Chair Armstrong:

I want to make sure I heard correctly. Larger firms have less impact under the BLF proposal, and it affects more small businesses because we have the exclusion in the MBT. Can you clarify that?

Dr. Trimbath:

You understood correctly. The way I said it was the opposite, but you brought it forward and that is true. Large businesses have more to lose from increasing the MBT; therefore, they have less to lose by putting the BLF on revenue. Smaller businesses have more to lose by having a revenue-based fee. It all has to do with the maximum revenue before you trigger more than \$400. That is a small business issue.

Chair Armstrong:

I want to make sure I understand. You said if we propose something like the BLF, shifting the revenue burden from payroll about 4 percent would lead to a 0.24 percent increase in manufacturing jobs. We have seen proposals from the Tax Foundation that show Nevada's economy has shifted from a manufacturing- to a service-based economy. The MBT is payroll-based, which is more service-based. Is the 0.24 percent in manufacturing based on our current or future environment, or is that based off what time stamp we use?

Dr. Trimbath:

The relationship of 4 percent to 0.24 percent is based on broad-based economic studies. It is not specific to Nevada.

Ray Bacon (Nevada Manufacturers Association):

Our issues are much like what Mr. Enos expressed. The manufacturing sector has a propensity in this State toward durable goods, and some of those goods are not consumed at all in the State. Some companies that have a gross revenue in the neighborhood of \$700 million or \$800 million will not pay anything on the tax. The guy down the street has a small machine shop and a lot of local customers, so he pays more. The disparity will be an issue. I wish I had a perfect answer for you, but I do not. The tax we have chosen is based on the Texas tax in the manufacturing sector. In Texas, the manufacturing jobs number about 890,000, which is 6.8 percent of the economy. In Nevada, manufacturing jobs number 42,000, 3 percent of the economy. That is substantially different. Because of the oil, gas and chemical sector, Texas is a huge consumer of what the state produces. The steel operations and all the pieces that go into making refineries, plastic plants and chemical plants are produced in Texas because it is expensive to move it across state lines.

I suspect we will readdress the rate 2 years from now if it is put in place. I suspect it is wrong. I do not know how wrong it is. Our economy is different from Texas, and this tax will be a problem.

A few people have touched on this. The BLF is complex for a multistate operation and a multisector operation and will be a difficult tax with which to comply. Look at the IRS change in 1986. Companies were allowed to say this is the way we read this tax and this is the way we believe it will be applied to our business. They could request determination letters from the IRS to determine if they were reading the change the right way or not. That process does not exist here, and we have never done that type of process here. We are delving into new worlds. The Department of Taxation is not looking at the need for auditors until we are into the audit stage. The Department may need some of those people now to get people through this stage.

We anticipate some strange ones in the manufacturing sector. A company has multiple divisions. One of those divisions is in Nevada and producing a product. Some of it is sold here and some is not. Some of the operation is a different sector. If the company ships product from that other division, these guys will not know about it. Does the company have to include those in its taxes? I doubt any of us have an answer.

I can give you a specific. A company makes salad dressing in this State, and the company's other operation makes bleach. The bleach guys do not know the salad dressing guys exist. Does the company have to consolidate its taxes under the reporting stream here, or how do we handle this? Those questions will come out. The companies will need some technical expertise to say, all right, here is my issue, how do I get there? The compliance cost goes up substantially if the salad dressing guy has to go find out what the bleach guy is doing. These issues are workable but not easy. I do not know how we do that in legislation, but those issues need to be addressed.

Increasing the MBT would increase taxes on our people, most likely more than the BLF, but the MBT is easier to comply with. As most of you are aware, there has been a lot of consolidation in the manufacturing sector. The Koch brothers own companies in 15 different sectors. They have a plant in Nevada. Does the BLF apply to all their different sectors? We need to figure that out.

The manufacturing sector was hit hard during the Great Recession. We started off with 50,000 jobs and lost 11,000 jobs. We are back up to 42,000 jobs. The Tesla plant alone would not get us back to where we were prior to the recession. We used to make a lot of building materials, and that sector is gone. Those companies have closed and are gone. We have been deeply involved in education reform issues for 22 years. Those have to be tied together.

The career and technical education (CTE) schools in southern and northern Nevada are doing outstanding jobs. Their graduation rates are over 90 percent. That is unheard of in this State. You get into those programs in a lottery. The demand is 8-to-1 capacity. When you do the education reforms, we know what works. Do not leave those out. Force those issues to come to the party. A CTE school does not have to be in a big campus. It can go to a converted industrial building that is sitting empty.

I do not believe our members would be opposed to the concept of an MBT with multiple rates. You could have a rate for payroll and segregate the higher-paid people for a higher rate. That would bring in additional revenue.

For the nonresident corporations, which is a huge part of the increase, most of this is focused on paying for education. I do not find the nexus between the nonresident corporations and our education system. When you have the MBT, there is clearly a nexus.

A number of companies that do not make anything sold in our State will be sporadic reporters. They will not have anything for 2 or 3 quarters that is shipped in Nevada, then all of a sudden they will have a job that comes up. That will make their tax reports look goofy.

Matthew Taylor (President, Nevada Registered Agent Association, Inc.):

The commercial registered agent industry represents 209,000 corporations and LLCs active in Nevada. I will discuss our concerns with S.B. 252. We are concerned about fee increases for those nonpayroll businesses located elsewhere that are registered in Nevada. I will share the results of an economic study prepared by Dr. David Swanson and Dr. Robert Schmidt that we commissioned to study the effects of S.B. 252 as it relates to commercial parties in Nevada.

The State of Nevada, the Nevada Legislature and the commercial registered agent industry have worked together for the last 25 years to help recruit and develop a positive legal and financial environment to bring businesses from outside the State to incorporate in Nevada. Until recently, we have been successful meeting that goal. Nevada has 200,000 of its 307,000 LLCs and corporations on file owned and controlled by businesses that neither operate in the state nor have payroll in Nevada. As a result, they also place little burden on our State. They do not drive on our streets, they do not have children in our schools and they do not avail themselves of State resources.

Those 200,000 businesses generate \$130 million a biennium with little or no cost to the State. In addition to the State revenues they bring in, they also spend millions of dollars on legal, accounting, professional and other services and goods purchased from Nevada vendors. All of that stands to end with the passage of S.B. 252.

Today, Nevada is already losing a significant market share as a result of increased competition from other states, specifically Delaware and Wyoming. We also dealt with increased fees and past Business License Fee increases as well as increased regulation and reporting requirements with the State. When those economic factors are taken as a whole, we have seen a 25 percent reduction in the last decade of all new filings and corporations on an annual basis in Nevada. If this BLF and annual gross receipts component are passed, the State stands to lose 124,000 businesses or 35 percent of the total businesses in Nevada by the end of FY 2017. This represents a shortage of \$107 million that this increase is supposed to raise.

In addition, we will face a reduction of new filings of 44 percent in 2016 and 63 percent in 2017. By losing those filings, Nevada loses the chance to replace those businesses we stand to lose. Nevada's future for competing for the filing revenues gets worse by losing our image and tarnishing our ability to market Nevada as a tax-free environment. We give up a large competitive advantage to states like Wyoming and Delaware.

I am not here to convince anybody that the education system does not need reform. I have heard a lot of proposals in other committees and looked at other options. We reviewed the MBT, and we are happy to discuss the components of the Live Entertainment Tax and other components that do not place an

additional financial burden on these out-of-state businesses. We are pricing ourselves out of the market, and the market will not bear another increase like this. I am available to work with anyone to look at other plans.

Assemblywoman Kirkpatrick:

How many businesses left Nevada? I understand 25 of them tried to go to Wyoming. How many has it truly impacted outside of the Great Recession? We have to be mindful that businesses need to have the opportunity to grow. Where else are we less competitive with the surrounding states?

Mr. Taylor:

I have a complicated answer. Companies go to a number of places. They stay home. They do not look to export in another jurisdiction. It may become easier and cheaper for them to stay home and incorporate in their home state. We are also facing increased pressures from states like Wyoming, which has grown 388 percent in the last decade. Our new filings have dropped 25 percent on an annual basis. We have lost 20,000 new filings a year in the last decade from our high in 2006. We have never recovered from the Great Recession and the increased fees in the reporting requirements. What was supposed to be a temporary \$100 increase is now a \$200 increase above that with quarterly returns to the Secretary of State and the Department of Taxation.

We are dealing with scrutiny and coming up with NAICS codes and a level of reporting that has not existed in Nevada for those businesses. The 124,000, while alarming, is conservative because it considers the price issue more so than the administrative burden that goes into compliance for out-of-state businesses. Wyoming has benefitted the most. That state has modeled a lot of its laws to compete with us.

Senator Ford:

How many businesses have we lost by increasing the fee from \$100 to \$200?

Mr. Taylor:

We have lost 20,000 new filings a year versus where we were at in 2006. The Great Recession did have an impact, but while other sectors have recovered and our competition has recovered, Nevada has not. We stay flat at that number.

Senator Ford:

Have you conducted exit surveys with these individuals to ascertain the reason? Do you know what effect increasing the rate had on them leaving?

Mr. Taylor:

We have not. We did not conduct an exit interview in 2009 when those businesses were leaving. When I prepared for this testimony, I surveyed some companies on how likely they are to leave and how likely are the marketing dollars to continue promoting Nevada. Our attorneys and accountants could experience a drop in their business with this projection. Those are the factors we used to assess our potential loss.

Senator Ford:

When I first moved to Nevada, it was referred to as the Delaware of the West when it came to businesses and corporations. One of the differences was the corporation system. Outside of inexpensive corporation fees, do companies look at other things in addition to incorporating? Delaware has a developed system, and we are developing ours here.

Mr. Taylor:

A lot goes into Nevada as far as why it is. I spent 17 years of my career promoting and educating entrepreneurs about why Nevada is the location to be. In that time, I have personally helped bring over 12,000 businesses to the State. We enjoy many benefits. All our laws have been mirrored and improved upon by states like Wyoming because they look at increasing revenues for their states and getting a share of that business. We prided ourselves as being the Delaware of the West; Wyoming is successfully staging itself to be the next Nevada.

Bryan Wachter (Retail Association of Nevada):

I did not bring an economist or an economic report. The members of the Retail Association did not send me here to just say no. I want to recognize what the Retail Association of Nevada (RAN) members do support. They support tax revenue increases to meet the needs of our new Nevada. They support increasing investment in our public schools. We support Governor Sandoval and the bold choices he made during the State of the State Address. Governor Sandoval has proven he is a capable leader. We agree with his

ultimate destination on where he wants to go, and we are excited to see the outcomes of his proposed education plan.

The Retail Association supports anyone from Governor Sandoval to members of the Legislature who have signaled their willingness to listen and consider alternative proposals. The retail industry is proud to be a large portion of the Silver State economy. We are one of the largest employment sectors in the State. Twice as many jobs are supported by retail in Nevada as there are slot machines in Las Vegas. We are here to stay. You will not hear that we are going to leave the State based on a tax plan that comes out of the Legislature. You will not hear members of the retail industry claim they will leave if you pass a tax that relies on gross receipts. We are committed to staying, growing and investing in the new Nevada.

The principles that RAN members use to judge taxes are the same as Governor Sandoval's. Our conclusions are different. While broad-based, the latest installment of a tax based on gross receipts is not easy to understand or to comply with. It does not allow business owners to make decisions themselves; instead it relies on the government to determine the best business practices for individual businesses. As an example of the complexity of S.B. 252, the retail industry is not one size fits all. A quick glance at the NAICS codes reveal at least 13 different retail and subretail NAICS codes exist. Once retailers guess which codes are best, they must appropriate their Nevada revenue from their multistate revenue. The rates have been predetermined, but it remains unclear what went into those initial calculations.

Although we opposed the margin tax on the ballot last November because it was based on gross receipts, it allowed a company to determine its own gross revenue by choosing different deductions. We understand these figures have taken into account the margins and the complexities of each individual industry. Our tax departments have asked how the drafters arrived at those numbers. We do not judge the complexities of S.B. 252 on the number of pages, but because it is unclear how a business determines its NAICS code and how it constitutes its primary business. We have heard this from multiple speakers.

Senate Bill 252 has the potential to cause very large companies that export their products to other states but utilize Nevada services to see their liability be significantly less than a large company that sells products in Nevada. If you

create something or if your business is here but you end up exporting that final product, your tax liability is much less than the large companies that sell their final products in Nevada. Nevada businesses whose receipts are in Nevada will pay a premium to support companies whose receipts are derived from out-of-state buyers.

Senate Bill 252 will make products more expensive as it applies a tax to every level of economic activity, and I am referring to pyramiding. If a tax applied on every level is implemented, a product is taxed from the manufacturing, shipping, storing, wholesaling and selling to the ultimate consumer. Nevada's tax structure needs to be fixed. Throughout the last decade, we have broken it ourselves for the most part by creating exemptions, abatements and loopholes and failing to modernize our taxes to meet a globally connected economy.

We have to note that this tax will be an addition to all the taxes paid. It is a double tax to those who pay the MBT. The previous economist talked about shifting away from payroll into revenue. Many of the larger businesses that pay the MBT will not see a shift, they will see an addition to. They will pay taxes on payroll and on gross revenue.

The MBT could be broad-based. It is not a hurdle to hiring. We have seen it fluctuate but remain solvent due to a rate increase. There is no evidence that raising the MBT resulted in job loss. We have heard testimony that the MBT fell because the economy fell. The Legislature took steps to mediate that. Governor Sandoval has presided over a state that has seen huge job increases even with the MBT increase. We congratulate him on that leadership. The Legislative and the Executive Branches have narrowed the MBT through increases in exemptions. We went from a smaller exemption, and last Session we went to \$85,000. We need to fix that and provide a minimum tax that could be done based on a few factors. We look at a tax that is predictable. If you want a kindergartner to enter school now and promise when that kindergartner gets to Grade 12, he or she will have the same resources, the MBT is more predictable over the 12-year period than a tax based on revenue. It will fluctuate more with the economy than you would with a less-volatile tax.

It is important enough that a labor-intensive company has the greater potential to use government services than a nonlabor-intensive business. The State sales tax does not take into account how Nevadans shop and consume. Nevada's

economy is 70 percent service-based, and Nevada does not levy taxes on most of that 70 percent of the economy. It also does not take into account consumption and remote sales. The remote taxes are owed by consumers on a voluntary basis. Nevada loses millions of dollars because of the collection problem. Legal remedies have long existed and have increasingly been upheld by courts all over the Country. Nevada has not experienced that, and our revenue has suffered.

New taxes create unintended consequences, and they are unpredictable. Nevada's tax system is not unpredictable. The Economic Forum projects the MBT to within 2 percent every time we have had to do so. Changing our system to make it more broad-based could bring in revenue far easier and more quickly than a new tax. Change the rate and you avoid an implementation, and the public does not need an education on a new tax system. It is confusing to our members that S.B. 252 could be implemented as fast as advertised. While we have a BLF now, it is not calculated or regulated anywhere near that of S.B. 252. It is confusing that taking on this process would be free to the Department of Taxation.

Mr. Chair, RAN supports your goals when it comes to education reform and increased spending. We support the Governor and we support the Legislature that wants a long-term solution. You take time out of your legislative calendar to review how we fund Nevada, and we should expand that conversation beyond a way to pay for an increased spending on one budget item. We are concerned because this tax is being suggested to pay for an increase in education spending. What happens 2 years from now when the State says we have fixed education, and now it is time to move on to the next project?. Do we get another new tax? Do these rates increase? How do we go about expanding and increasing State spending on other projects? We have long-term concerns. We stand ready, and we have been at the table every Session for a decade, with suggestions and willingness to look at new taxes.

Janine Hansen (State President, Nevada Eagle Forum; Nevada Families for Freedom):

As we heard earlier, businesses do not pay taxes, people do. We have had many corporate executives representing big business today. There has not been anyone representing average families. Between 50 percent and 60 percent of the average family income goes to federal, state and local taxes. Most of that is

in hidden taxes. That is more than their housing, food, health care, education or recreation. Much of those are in hidden taxes. My brother had a roofing business. He would give an estimate for a roof and explain that the roof will cost his client \$5,000. Of that \$5,000, \$2,500 was in taxes, fees, licenses and compliance with regulations.

It will be the individual consumer, the family and the people paying the taxes, not the big corporations. No amount of excessive taxation will improve education because we have not changed what we are doing with education. We must have world-class standards like California and Mississippi. We have to implement systematic, intensive phonics and foundational mathematics, which we have failed to do.

I have been at this Legislature longer than any of you. I first started in 1971 and since 1991, I have been here full time. Years ago after a huge education tax issue, Senator William J. Raggio hugged me and said, Janine, I hope we finally solved this. We have not; here we are, year after year, with the same problem. One of the issues we have talked about is money for early childhood education. The largest study ever by the U.S. Department of Health and Human Services in 2010 showed that early childhood education is a failure in improving educational success. Head Start proved to be a tragic waste of money 45 years and \$66 billion dollars later.

Chair Roberson:

I need you to contain your comments to S.B. 252. This is not public comment, you are here to testify in opposition to S.B. 252.

Ms. Hansen:

You guessed it right. I am in opposition. We heard a lot of platitudes about education, and I was responding to some of the testimony we heard for 8 hours today. Jim Clinton, who is the CEO of Gallup, wrote an editorial on February 3. He calls the unemployment rate, reported by the United States government of 5.6 percent, the big lie. He has done this survey for many years. He reports 44 percent of Americans are working 30 hours a week or more.

This bill will impact my daughter who has a small business boutique in Reno. She does not have any employees and has been open since 2011. She is barely surviving from week to week and month to month. Last year, I had to pay her

phone and electric bills so she could stay open. These taxes impact those who are on the fragile end of keeping a small business open. Small businesses are important to the economy and provide jobs.

Regarding the report on Head Start, not a single one of the 114 tests administered to first graders showed any improvement in academics, emotional and social development, health care status, parenting practices or any reliable and significant effect. Many things can improve our education. We need to return to world-class standards instead of progressive dumb-down programs like Common Core.

Wayne Frediani (Nevada Franchised Auto Dealers Association):

As an industry, we are opposed to S.B. 252 as drafted. Our industry went through a severe sales drop in 2009 and 2010. Our sales dropped 54 percent. Our economy mimics the housing economy. If the housing market drops, automobile sales drop too. With that drop, we lost 16 dealerships and approximately 3,000 employees. We are the second-largest producer of sales tax remitted to the State, and gaming is No. 1. That is because the two most important items people purchase are a home and an automobile. Our remittance in sales tax from 2008 dropped from \$450 million to \$224 million over the following 2 years.

As an industry that drives Nevada's economy, we are beginning to make a comeback. Over the last 2 years, we have rebounded with a 25 percent increase in overall total sales statewide. We remitted approximately \$330 million in sales tax. Between sales taxes, property taxes and local taxes, our industry contributed approximately \$550 million a year. We support education and economic development. In September of last year, our industry relinquished a right we had for 52 years by supporting the Tesla project. Tesla is an electric motor vehicle manufacturer that sells directly to consumers. We have franchise laws that prohibit that. In Texas, Arizona, Connecticut and Pennsylvania, their legislatures are in a battle with Tesla for the same provision that we relinquished—the right to sell directly. We were able to relinquish that right because of economic development. It is still not a big hit to our market share. Tesla does not have a sustainable business model with a \$120,000 car—and the company needs the battery factory to make that go.

My concern is economic development. I have to disagree with some of the people who spoke earlier—it will have an impact if this tax is passed. I am not an expert on economic development. We would be receptive as an industry to alternatives. We are willing to work with this Committee, the Governor's Office and the Legislature to come up with an alternative. The MBT is one we could support. In this industry, we have a high average salary. Our average employee at a car dealership makes \$53,000 per year. Our payrolls are large. We are not as concerned with the tax rate as we are the policy. This mechanism is not the right way to go. I am hopeful the Legislature and this Committee will vet all the options between now and the end of the Session.

Victor Joecks (Nevada Policy Research Institute):

We oppose S.B. 252. Earlier today, we heard Governor Sandoval model his gross receipts BLF after the Texas margin tax. In contrast to the sunny picture painted earlier, the margin tax has hurt small businesses in Texas. According to a survey conducted by NFIB Texas, a small business association, 20 percent of small businesses reported they had to lay off employees, one-third said they held off hiring and 3 percent closed a year after the margin tax was imposed. Those things happened because of the margin tax.

Earlier this month, Texas held a hearing on a bill that would repeal its margin tax. Governor Sandoval stated he wanted a broad-based tax. Two years ago, Governor Sandoval bragged in his Executive Budget that by increasing the amount of wages exempt from the MBT, three out of four businesses would not pay the MBT. It is amazing that one year he can brag about it and the next year it is a crisis that needs to be fixed. The gross receipts BLF also contains many tax cliffs in which a dollar in additional revenue produces a tax bill greater than the dollar and in some cases, up to \$140,000. That is a structural issue.

The Nevada Policy Research Institute has one area of agreement with almost everyone who spoke here today. We all want a better education system. This is why decades of spending increases have not increased student achievement. According to the federal government, in the last 50 years, Nevada has nearly tripled our inflation-adjusted per pupil spending. There was a reference today to the myth that Nevada businesses have said no to education funding increases. They have been saying yes for years. According to the Legislative Counsel Bureau, in the last 30 years, Nevada has nearly doubled inflation-adjusted per pupil spending. In 1983, Nevada spent \$4,800 per pupil,

adjusted for inflation; in 2011, we spent \$8,700 per pupil, adjusted for inflation. Over time, three Governors at this table spoke to education in their State of the State Addresses. Governor Bryan said, "since 1984, Nevada has increased the money dedicated to our public schools by nearly 50 percent." Governor Miller said, "As long as I'm Governor, education will remain this State's priority. Therefore over 61 percent of all new revenues in my budget go to education. I propose increasing education funding by \$96 million."

Governor Guinn focused his education agenda on the basics—textbooks, teacher training and reading. "My General Fund budget includes an increase of \$98 million for K-12 education ... in addition, ... over \$75 million of our one-shot funding. This represents a 13 percent increase over last biennium, and the largest allocation for education in our state's history. I will mandate a system of checks and balances to ensure that this funding produces results for our children."

A decade later we must ask, where are those results?

One telling case study involves Governor Miller. When he was here, he talked about how he wanted to increase education spending, and he did that successfully during his tenure as Governor. In 1989, education spending was \$5,900 per pupil, adjusted for inflation. In 1999, we spent \$7,500 per pupil. Much of that went to Governor Miller's class size reduction program. Nevada has spent billions over the last few decades on class size reduction. When students entered schools in the 1990s who should have benefitted from class size reduction and started graduating, Nevada's graduation rate fell to 40 percent, the lowest in the Country. Recent testimony in the Senate Committee on Finance by Superintendent Dale Erquiaga stated that the Department of Education can find no correlation between class size and star school rankings. Conservative scholars have pointed out for years that class size reduction is ineffective. The Brookings Institute also noted that class size reduction funding is money spent ineffectively.

Governor Sandoval has talked about accountability for the new education funding. If he and the Legislature are serious about accountability, we urge you to start with the class size reduction funding that is a major inefficiency.

Assemblywoman Bustamante Adams:

You mentioned the small businesses closing in Texas. How does Texas define small business? Is it a cap on a certain revenue?

Mr. Joecks:

It was a survey conducted by the NFIB Texas chapter. I can talk with the executive director and find out how it defines small business. It was done among chapter members.

Terry Graves (Western Metals Recycling LLC; Nevada Cogeneration Associates):

Since most of the technical aspects we have problems with have been discussed ad nauseam, I have some additional anecdotal testimony. There has been great enthusiasm and support expressed here today for S.B. 252. I would like to open one small window outside this hearing room. I suspect for many business people and citizens who have been hanging by their fingernails for the last 7 or 8 years, this is not being greeted with the same enthusiasm we have observed in this hearing room today.

I would like to add to the record that the scrap metal processing industry has been a harbinger of the economy. When the economy is vigorous, scrap metals are created by new construction, renovation of old facilities, scrap produced by manufacturing operations and all other types of industry-produced scrap. It is also created by people replacing their appliances. All these things are indicators of a robust economy.

The scrap metal industry is flat. One of my scrap metal clients has laid off one-third of his 40 employees in the last few months. The price of scrap steel is less than the cost of transporting it. While certain signs of upward economic trends have been discussed today, the economy is still not so vigorous that we can be unmindful of the impact of a tax increase on businesses and individual citizens. Much of the burden of this tax increase will fall on the citizens.

I have another client who exemplifies another issue. The client lives on a fixed contract with no ability to pass on extra costs. I do not know if my client lives or dies by this tax proposal, but I think a lot of businesses in fixed contracts in this economy would find it problematic with this tax.

Chair Roberson, you posed a question in one of your previous hearings. You have two companies with the same revenue. One of those companies has 100 employees and one has 10 employees. How do you fairly tax these two entities? The company with 100 employees could put 200 kids in the school system, and the company with 10 employees could put 10 or 20 kids in the school system.

I agree with the Governor's comment that there is no perfect tax plan. I hope he will entertain other proposals. We are open and want to engage in further discussion of the issues and seek revenue enhancements for education.

Paul Moradkhan (Las Vegas Metro Chamber of Commerce):

As the largest and most broad-based organization in the State, the Las Vegas Metro Chamber fully supports reforming Nevada's out-of-date tax structure. Our State needs dependable resources to fund education, invest in infrastructure and provide the services on which we all depend. With so much at stake, we have an interest in making sure any kind of tax reform is done in a way that will not harm job creation; is fair to all types of businesses; is simple to understand, easy to comply with and transparent; and will provide long-term stability to our State. The Las Vegas Metro Chamber applauds Governor Sandoval for his leadership and his courage, pressing for education reform and putting forward a plan to pay for it. We supported the Governor's request for new funding early on. We continue to support Governor Sandoval and these goals and thank him for his invitation to analyze and discuss this bill.

Businesses around the State deserve to know what impact this proposal will have on their businesses and employees. We are thankful we are doing this on Day 45, not Day 115. This will give us the time to have the meaningful discussions about what good tax policy is and how we can find the right solutions which will not harm economic growth and job creation.

There is general agreement from the business community to support revenue enhancements to help better K-12 education and other areas. This spirit of cooperation and commitment toward getting this done should not be squandered or derailed. The Las Vegas Metro Chamber believes forming a secure tax structure is critically important, but we need to take action this Legislative Session, and we have made a commitment to be part of that conversation. We need to reform tax structure in a way that is fair and

broad-based, promote job growth and provide revenue stability for years to come. It is important to know that businesses are being asked to pay a significant tax increase; as a result, the Metro Chamber is taking sufficient time to study this bill and other tax proposals as they emerge. We want to understand how this tax plan operates and the impact it will have on Nevada businesses. We need to be sure the tax proposal will bring the additional revenue we need this biennium but also give Nevada the stable tax structure to fund these ongoing needs in the future. Unintended consequences happen when decisions are rushed.

This bill and its provisions will change how businesses are levied and taxed. It may be the best solution for Nevada, but only through examination and careful analysis will we be certain. The Metro Chamber is an association driven by public policy, transparency and data. We care about this conversation. We have been part of Nevada's fabric for over 100 years, and we have a strong history in shaping our great State. We do not take our role or responsibility lightly. We want what is best for our community, our State, job creation and for the next generation of Nevadans.

Senator Hardy:

Are you for the tax?

Mr. Moradkhan:

We will analyze this bill. We are neutral at this time.

Dana Bennett (President, Nevada Mining Association):

In the past 100 years, the Nevada Mining Association has grown from a group of 35 mine operators in southern and western Nevada to over 400 members located in every county in this State. We represent the broad spectrum of the mining industry. Our members produce 20 different minerals essential for the devices we rely on every day and strategically important for national defense. As the source of raw materials, a healthy mining industry is essential for a successful manufacturing industry here and across the Country.

The Nevada Mining Association applauds Governor Sandoval's proposal for education reform in Nevada. As Nevada's first and most enduring STEM industry, we are keenly aware of the need for an excellent education system. Thousands of our kids attend Nevada schools, and we intend to continue hiring

graduates from Nevada schools. From its beginnings on the Comstock, Nevada mining remains an industry that develops cutting-edge technology that is adapted by many other businesses and industries. We have been and continue to be a high-tech industry that demands a highly skilled workforce. It is imperative for the future of our industry that our education system is superb in every way, from preschool to Ph.D. programs. We are confident that the Legislature is considering comprehensive education reforms that will achieve these goals. After years of cuts to important programs, we know that it is time to get Nevada back on track. Nevada's revenue structure has been too narrow for too long.

In 2002, the Nevada Mining Association adopted a formal position statement on taxes that we stand behind today as much as we did when it was first written. It is published on our Website. The Association recognizes that the State's existing tax system is inadequate for the task ahead. We believe that Nevada's tax system requires a broad-based revenue solution that includes all sectors of Nevada's economy. Since 2003, we have consistently supported legislative proposals for broad-based taxes. Most recently we supported the Steven A. Horsford-John Ocegüera tax proposal in 2011.

We are confident that the Governor's plan will raise the funds necessary to develop the education system that Nevada needs for its success now and in the future. The proposed BLF as provided in S.B. 252 includes many of the elements we believe are important for the success of a new revenue stream. It takes into consideration that Nevada's industries are not all the same and that some industries, such as mining, already pay significant amounts of industry-specific taxes. The proposal will not adversely impact economic diversification efforts, which are so important to our State.

We are pleased to endorse the Governor's vision for Nevada and to join the Nevada business community in support of S.B. 252.

Assemblywoman Bustamante Adams:

Your gross revenue is already subject to the Net Proceeds of Minerals Tax (NPOMT). That is not covered in this bill. The mining industry has other revenues covered under this bill. Have you done a calculation of the total amount of revenue that would be impacted by this bill?

Ms. Bennett:

Revenue streams will be captured by this bill. We believe that asset sales will be included because that is not included in the calculation for NPOMT. In section 24, mine operators would also be affected by the bill. They do not pay NPOMT because they are contract operators. We think their impact will be significant. We also have members who have multiple business licenses. They might be subject to the utilities tax rate. They might be subject to the manufacturing tax rate or one of the other tax rates. It is a complex calculation. We are working on it and believe it will be significant. This will be in addition to our already significant tax burden in Nevada.

Ryan Sheltra (General Manager, Bonanza Casino):

We are a small, family-owned business. My father started Bonanza Casino 43 years ago. I am a native Nevadan. We have 157 employees. It feels like we pay every tax that you create, including the MBT. The MBT is not broad-based. I am not here to complain about it. I am here to do something that you probably do not expect. I support S.B. 252. I have been involved in the gaming industry my entire life. I have worked in Reno, Las Vegas and Lake Tahoe. I believe I bring a unique perspective to you, not only as a gamer but a gamer with many close ties to our education system.

My mother was a teacher, my sister was a teacher and my wife taught at the University of Nevada. I have two small children in the Nevada public school system, and I am a product of the Nevada public school system. I started a Partners in Education program 15 years ago with North Valleys High School, modeling it after what Harrah's did with Hug High School. I see firsthand the problems of our overcrowded classrooms, dilapidated facilities and underfunded gifted and talented student programs. We all recognize the problem, so how are we going to pay for it?

I say enough of the age-old attitude of tax anybody but me and I will support it. I accept what the increased BLF means to us and what it will cost my business. We accept this increase even though we are already part of the highest-taxed industry in the State. This fee is broad-based and this fee is fair. As a long-time Nevada business, we believe this is not about taxing the other guy, this is about every one of us stepping up to the plate and doing what is needed for our youths and their opportunities in the Nevada education system.

Assemblywoman Bustamante Adams:

Earlier, the larger casinos talked about the shift in the percentage of gaming revenue versus nongaming revenue that has taken place. Is that the same for your business; if so, what percentage is subject to the tax in this bill?

Mr. Sheltra:

To answer your first question, we have not seen the shift. I would love to be like Las Vegas and turn our food and beverage operations into a profit center. We are still like Las Vegas of the 1960s where we use our food and beverage as a loss leader to bring people in the door. I lose my tail in food and beverage. I have millions of dollars in nongaming revenue that I cannot take to the bottom line in the net profit calculation. They get caught up in this tax. I will be taxed on money I lose. I do not have a margin. I would be happy to give you the percentage. It is proprietary information that I will share with you off-line. We are a single entity, not a public company. The tax is substantial. We have calculated it, and we will feel it.

I see the schools weekly. Everybody has to step up to the plate and do his or her part. I accept it. Tax me.

Assemblywoman Benitez-Thompson:

Bonanza Casino is in my district. I take my family to the café for the fried chicken dinner. I understand you have a relationship with North Valleys High School. Many of the elementary schools that feed into the North Valleys area were built in the 1950s and are old and rundown, especially the ones that feed in from Panther Valley and Golden Valley. I have seen hints that let me know we may be of different parties. I appreciate the fact that you have come today and the testimony you have given. That is meaningful.

Matt Griffin (Satellite Broadcasting and Communications Association):

DirecTV and DISH Network appreciate doing business in the State of Nevada. We provide television services to over 360,000 families in Nevada, and we employ over 350 Nevadans. Throughout the State, the satellite TV industry also partners with over 50 small businesses and business owners who sell satellite TV service in Nevada. Our industry has a big stake in Nevada's future and the success of our customers, employees and our companies. DirecTV and DISH Network applaud Governor Sandoval's effort to ensure Nevada remains a great place to live, work and do business by making reinvestments in the

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infrastructure and education of the State. DirecTV and DISH Network fully support Governor Sandoval's proposition contained in S.B. 252.

Assemblywoman Kirkpatrick:

Where do you fall in the NAICS codes? You were opposed to advertising. Do you not fall under advertising?

Mr. Griffin:

We fall under telecommunications.

Assemblyman Kirner:

Does your industry pay franchise tax?

Mr. Griffin:

No.

Chair Roberson:

Brad Spires, Kathia Pereira, Amy Ortiz and Barbara Deinet—These people were here and prepared to testify in support of S.B. 252.

Michael Harris (Nevadans for the Common Good):

We are a broad-based, interfaith coalition of 37 houses of worship and nonprofits. We support S.B. 252. On February 12, we met as a body and on February 26, we discussed the Governor's proposal. We had a nearly universal consensus that this is a fair and rational approach to raise revenue. If part of the equation is raising revenue or failing our children, communities or our economy, this is the easiest math problem in the world. We have our questions and concerns, but we are sure the legislative process will refine the language and our concerns will be addressed.

Assemblywoman Kirkpatrick:

Is your organization a 501(c)(3)?

Mr. Harris:

We are. We have some individuals who are associated with our member institutions, which encompass about 40,000 citizens in Las Vegas. Even the business owners who felt like they would be negatively impacted said they were willing to pay the BLF if it could be dedicated to education.

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Assemblyman Nelson:

How would your organization feel if 501(c)(3) companies were not exempted from the tax?

Mr. Harris:

Our position would not change.

Chair Roberson:

That was our last question for the night. Thank you all for putting in 9.5 hours.

SENATOR KIECKHEFER MOVED WITHOUT RECOMMENDATION TO
REFER S.B. 252 TO THE SENATE COMMITTEE OF THE WHOLE.

SENATOR HARDY SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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Chair Roberson:

This hearing is adjourned at 10:21 p.m.

RESPECTFULLY SUBMITTED:

Gayle Rankin,
Committee Secretary

APPROVED BY:

Senator Michael Roberson, Chair

DATE: _____

Assemblyman Derek Armstrong, Chair

DATE: _____

EXHIBIT SUMMARY				
Bill	Exhibit		Witness or Agency	Description
	A	1	Agenda	Agenda
	B	26	Attendance Roster	Attendance Roster
S.B. 252	C	3	Elaine Wynn	Prepared Testimony
S.B. 252	D	1	Nevada Home Builders Association	Prepared Testimony
S.B. 252	E	1	Desert Cab, Inc.	Letter
S.B. 252	F	3	Latin Chamber of Commerce	Resolution
S.B. 252	G	1	Urban Chamber of Commerce	Prepared Testimony
S.B. 252	H	20	Susanne Trimbath	Special Briefing